

# Michigan Register

Issue No. 6 – 2000 (Published June 1, 2000)



# **GRAPHIC IMAGES IN THE MICHIGAN REGISTER**

## **COVER DRAWING**

### ***Michigan State Capitol:***

This image, displaying an inscription “Charles Ciccarelli,” may have originated as an etching based on a drawing or a photograph. Nothing else is known about it, not even its exact date. The outside parameters for the time period of this attractive view of the Capitol are provided by its depiction of the statue of Austin Blair, unveiled in 1898, and the Civil War-era cannons, that were removed during World War II. The automobiles depicted in the image suggest that it may have been completed between 1915 and 1920.

(Michigan State Archives)

## **PAGE GRAPHICS**

### ***Capitol Dome:***

The architectural rendering of the Michigan State Capitol’s dome is the work of Elijah E. Myers, the building’s renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers’ fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, architectural renderings of the 19<sup>th</sup> century have not often survived. Michigan is fortunate that many of Myers’ designs for the Capitol were found in the building’s attic in the 1950’s. As part of the state’s 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

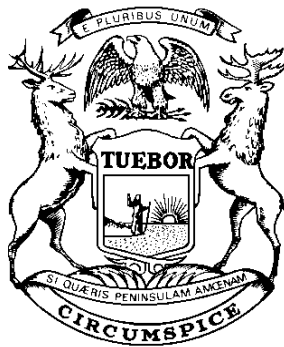
### ***East Elevation of the Michigan State Capitol:***

When Myers’ drawings were discovered in the 1950’s, the view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building’s recent restoration (1989-1992), this drawing was commissioned to recreate the architect’s original rendering of the east (front) elevation.

(Michigan Capitol Committee)

# Michigan Register

**Published pursuant to § 24.208 of  
The Michigan Compiled Laws**



**Issue No. 6 — 2000**

(This issue, published June 1, 2000, contains  
documents filed from May 2, 2000, to May 15, 2000)

Compiled and Published by the  
**Office of Regulatory Reform**

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Printed in the United States of America

**Michigan Register (ISSN 0892-3124).** Published twice per month, with a cumulative index, by the Office of Regulatory Reform, pursuant to §24.208 of the Michigan Compiled Laws. Subscription \$110 per year, postpaid to points in the U.S. First class postage paid at Lansing, Michigan. Direct all mail concerning subscriptions to Office of Regulatory Reform, Executive Office, George W. Romney Building, 111 S. Capitol Avenue, Lansing, MI 48933. Telephone: 517-373-0526.

**Brian D. Devlin**, Director, Office of Regulatory Reform; **Christopher L. LaGrand**, Attorney; **Deidre O'Berry**, Administrative Assistant for Operations; **James D. Lance**, Administrative Assistant for Publications.

**John Engler, Governor**



**Dick Posthumus, Lieutenant Governor**

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## PREFACE

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### PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Office of Regulatory Reform publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

MCL 24.208 states:

Sec. 8 (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
- (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
- (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
- (d) Proposed administrative rules.
- (e) Notices of public hearings on proposed administrative rules.
- (f) Administrative rules filed with the secretary of state.
- (g) Emergency rules filed with the secretary of state.
- (h) Notice of proposed and adopted agency guidelines.
- (i) Other official information considered necessary or appropriate by the office of regulatory reform.
- (j) Attorney general opinions.
- (k) All of the items listed in section 7(1) after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217.
- (2) The office of regulatory reform shall publish a cumulative index for the Michigan register.
- (3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.
- (4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.
- (5) An agency shall transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

MCL 4.1203 states:

Sec. 203. (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.

- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs preparing, printing, and distributing the Michigan register.

- (4) The department of management and budget shall sell copies of Michigan register at a price determined by the office of regulatory reform not to exceed cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

#### **CITATION TO THE MICHIGAN REGISTER**

The *Michigan Register* is cited by year and issue number. For example, 2000 MR 1 refers to the year of issue (2000) and the issue number (1).

#### **CLOSING DATES AND PUBLICATION SCHEDULE**

The deadlines for submitting documents to the Office of Regulatory Reform for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The Office of Regulatory Reform is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Office of Regulatory Reform, Executive Office, George W. Romney Building, 111 S. Capitol Avenue, Lansing, MI 48933

## 2000 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 31	February 29
2	February 29	March 31
3	March 15	April 17
4	April 10	May 1
5	May 1	May 15
6	May 15	June 1
7	June 1	June 15
8	June 15	July 3
9	July 3	July 17
10	July 17	August 1
11	August 1	August 15
12	August 15	September 1
13	September 1	September 15
14	September 15	October 2
15	October 2	October 16
16	October 16	November 1
17	November 1	November 15
18	November 15	December 1
19	December 1	December 15
20	December 15	January 2, 2001
21	January 2, 2001	January 15, 2001

### **RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE**

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year. Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

### **SUBSCRIPTIONS AND DISTRIBUTION**

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$110.00 per year. Submit subscription requests to: DMB, Office of Administrative Services, P.O. Box 30026, 320 South Walnut Street, Lansing, MI 48909. Checks Payable: State of Michigan. Any questions should be directed to the Office of Regulatory Reform (517) 373-0526.

### **INTERNET ACCESS**

The *Michigan Register* can be viewed free of charge on the Internet web site of the Office of Regulatory Reform: [www.state.mi.us/orr](http://www.state.mi.us/orr)

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Office of Regulatory Reform Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Brian D. Devlin, Director  
Office of Regulatory Reform

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**FILED WITH THE SECRETARY OF STATE**

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Administrative Rules

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**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**BUREAU OF WORKERS' DISABILITY COMPENSATION**

**WORKER'S COMPENSATION HEALTH CARE SERVICES**

Filed with the Secretary of State on April 25, 2000.

These rules take effect 15 days after filing with the Secretary of State

(By authority conferred on the bureau of workmen's compensation by sections 205 and 315 of Act No. 317 of the Public Acts of 1969, as amended, section 33 of Act No. 306 of the Public Acts of 1969, as amended, Executive Reorganization Order No. 1982-2, Executive Reorganization Order No. 1986-3, and Executive Reorganization Order No. 1990-1, being §§418.205, 418.315, 24.233, 18.24, 418.1, and 418.2 of the Michigan Compiled Laws)

R 418.10001 to 101501

**PART 1. GENERAL PROVISIONS**

**R 418.10101 Scope.**

Rule 101. (1) These rules do all of the following:

- (a) Establish procedures by which the employer shall furnish, or cause to be furnished, to an employee who receives a personal injury arising out of and in the course of employment, reasonable medical, surgical, and hospital services and medicines, or other attendance or treatment recognized by the laws of the state as legal, when needed. The employer shall also supply to the injured employee dental services, crutches, artificial limbs, eyes, teeth, eyeglasses, hearing apparatus, and other appliances necessary to cure, so far as reasonably possible, and relieve from the effects of the injury.
- (b) Establish schedules of maximum fees by a health facility or health care provider for such treatment or attendance, service, device, apparatus, or medicine.
- (c) Establish procedures by which a health care provider shall be paid.
- (d) Provide for the identification of utilization of health care and health services above the usual range of utilization for such services, based on medically accepted standards, and provide for acquiring by a carrier and by the bureau of the necessary records, medical bills, and other information concerning any health care or health service under review.
- (e) Establish a system for the evaluation by a carrier of the appropriateness in terms of both the level of and the quality of health care and health services provided to injured employees, based upon medically accepted standards.
- (f) Authorize carriers to withhold payment from, or recover payment from, health facilities or health care providers which have made excessive charges or which have required unjustified treatment, hospitalization, or visits.
- (g) Provide for the review by the bureau of the records and medical bills of any health facility or health care provider which have been determined by a carrier not to be in compliance with the schedule of charges established by these rules or to be requiring unjustified treatment, hospitalization, or office visits.
- (h) Provide for the certification by the bureau of carriers determined by it to be in compliance with the criteria and standards established by these rules in their utilization review of services and charges by health care facilities and health care providers.



- (i) Establish that when a health care facility or health care provider provides health care or health care service that is not usually associated with, is longer in duration than, is more frequent than, or extends over a greater number of days than that health care or service usually does with the diagnosis or condition for which the patient is being treated, the health facility or health care provider may be required by the carrier to explain the necessity in writing.
- (j) Provide for the interaction of the bureau and the department of consumer and industry services for the utilization of the department of consumer and industry services' procedures for the resolution of worker's compensation disputes.
- (k) Are intended for the implementation and enforcement of section 315(2) to (9) of the act, provide for the implementation of the bureau's review and decision responsibility vested in it by those statutory provisions. The rules and definitions are not intended to supersede or modify the worker's disability compensation act, the administrative rules of practice of the bureau, or court decisions interpreting the act or the bureau's administrative rules.
- (2) An independent medical examination shall be exempt from these rules and may be requested by a carrier or an employee. An independent medical examination, (IME), shall be conducted by a practitioner other than the treating practitioner. Reimbursement for the independent medical evaluation shall be based on a contractual agreement between the provider of the independent medical evaluation and the party requesting the examination.
- (3) These rules and the fee schedule shall not pertain to health care services which are rendered by an employer to its employee in an employer-owned and employer-operated clinic. The employer who owns and operates a clinic shall estimate the aggregate dollar amount of payments for worker's compensation health care services and include that information in the annual medical payment report as required by these rules.
- (4) If a carrier and a provider have a contractual agreement designed to reduce the cost of worker's compensation health care services below what would be the aggregate amount if the fee schedule were applicable, the contractual agreement shall be exempt from the fee schedule. The carrier shall be required to do all of the following:
  - (a) Perform technical and professional review procedures.
  - (b) Provide the annual medical payment report to the health care services division of the bureau.
- (5) These rules replace rescinded rules 418.101-418.2325.

#### **R 418.10102 Claim filing limitations.**

Rule 102. (1) A provider shall bill a carrier within one year of the date of service for consideration of payment.

(2) The one year filing rule shall not apply if the provider bills after the one year requirement under subrule (1) of this rule due to litigation or subrogation.

#### **R 418.10103 Complaints.**

Rule 103. Any person who is affected by these rules may submit a written complaint to the bureau regarding the actions of any other person who is affected by these rules.

#### **R 418.10104 Reimbursement for employee-paid services.**

Rule 104. Notwithstanding any other provision of these rules, if an employee has paid for a health care service and at a later date a carrier is determined to be responsible for the payment, then the employee shall be fully reimbursed by the carrier.

#### **R 418.10105 Balance billing amounts in excess of fees.**

Rule 105. The provider shall not bill the employee for any amount for health care services provided for the treatment of a covered injury or illness when that amount is disputed by the carrier pursuant to its utilization review program or when that amount exceeds the maximum allowable payment established by these rules.

**R 418.10106 Procedure codes; relative value units; and other billing information.**

Rule 106. (1) Upon annual promulgation of R 418.10107, the health care services division of the bureau shall publish a manual separate from these rules containing the following information:

- (a) All procedure codes used for billing health care services.
- (b) Medicine, surgery, and radiology procedures and their associated relative value units.
- (c) Hospital maximum payment ratios.
- (d) Billing forms and instruction for completion.
- (2) The procedure codes and standard billing instructions for medicine, surgery and radiology services shall be adopted from the most recent publication entitled "Current Procedural Terminology" as adopted by reference in R 418.10107.
- (3) The formula and methodology for determining the relative value units shall be adopted from the "Medicare RBRVS Fee Schedule" as adopted by reference in R 418.1007 using geographical information for Michigan. The geographical information, (GPCI), for these rules is a melded average using 60% of the figures published for Detroit added to 40% of the figures published for the rest of the state.
- (4) The maximum allowable payment for medicine, surgery and radiology services shall be determined by multiplying the relative value unit assigned to the procedure times the conversion factor listed in the reimbursement section, Part 10 of these rules.
- (5) Procedure codes from "Medicare's National Level II Codes HCPCS" as adopted by reference in 418.10107(2) shall be used to describe the following services:
  - (a) Ambulance services.
  - (b) Medical and surgical expendable supplies.
  - (c) Dental procedures.
  - (d) Durable medical equipment.
  - (e) Vision and hearing services.
- (6) The following shall be considered "By Report" (BR):
  - (a) Ancillary services listed in R 418.10106(3) and published in the Health Care Services manual by the bureau.
  - (b) All procedure codes that do not have an assigned relative value.

**R 418.10107 Source documents.**

Rule 107. The following documents referenced this rule are available for inspection in the bureau of workers' disability compensation, health care services division, PO Box 30016, Lansing, Michigan 48909:

- (a) "Current Procedural Terminology, CPT 1996" fourth edition, revised 1995, copyright October 1995, published by the American Medical Association, 515 N State Street, Chicago, IL 60610, 1-800-621-8335. The publication may be purchased at a cost of \$47.95 plus \$5.95 for shipping and handling at the time of adoption of these rules. Permission to use this publication is on file in the bureau.
- (b) "Medicare's National Level II Codes, HCPCS, 1999" eleventh edition, copyright November 1999, published by the American Medical Association, PO Box 7046, Dover, DE 19902-7046, Customer Service 1-800-621-8335. The publication may be purchased at a cost of 49.95 plus \$6.95 for shipping and handling at the time of adoption of these rules.
- (c) "RBRVS, Fee Schedule: A Plain English Guide", 1996 edition, published by United Communications Group, 11300 Rockville Pike, Suite 1100, Rockville, MD 20852-3030. The handbook may be purchased at a cost of \$49.95 at the time of adoption of these rules.
- (d) "International Classification of Diseases", Ninth Revision," copyright 1998 Medicode, Inc., American Medical Association, Order Department, PO Box 7046, Dover DE 19903-7046, 1-800-621-8335. The publication may be purchased at a cost of \$56.95 plus 6.95 shipping and handling at the time of adoption of these rules.
- (e) "1999 Red Book", copyright 1998, published by Medical Economics Company Inc., Montvale, NJ 07645-1742, 1-800-783-4903. The publication may be purchased at a cost of \$59.95 plus \$5.95 for shipping and handling at the time of adoption of these rules.
- (f) "Michigan Uniform Billing Manual," developed in cooperation with the American Hospital Association's National Uniform Billing Committee, published by Michigan Health and Hospital Association, 6215 West St. Joseph Highway, Lansing, MI 48917, 517-323-3443. The cost of the publication is \$135.00 plus 6% sales tax.

# **R 418.10108 Definitions; A to I.**

Rule 108. As used in these rules:

- (a) "Act" means Act No. 317 of the Public Acts of 1969, as amended, being §418.101 et seq. of the Michigan Compiled Laws.
- (b) "Adjust" means that a carrier or a carrier's agent reduces a health care provider's request for payment to the maximum fee listed in part 23 of these rules, to a provider's usual and customary charge, or, when the maximum fee is by report, to a reasonable amount, re-codes a procedure, or reduces payment as a result of professional review.
- (c) "Appropriate care" means health care that is suitable for a particular person, condition, occasion, or place.
- (d) "BR" or "by report" means that the procedure is not assigned a relative value unit, (RVU) or a maximum fee and requires a written description.
- (e) "Bureau" means the bureau of workers' disability compensation in the department of consumer and industry services.
- (f) "Carrier" means an organization which transacts the business of workers' disability compensation insurance in Michigan and which may be any of the following:
  - (i) A private insurer.
  - (ii) A self-insurer.
  - (iii) One of the funds of chapter 5 of the act.
- (g) "Case" means a covered injury or illness which occurs on a specific date and which is identified by the worker's name and date of injury or illness.
- (h) "Case record" means the complete health care record that is maintained by a carrier which pertains to a covered injury or illness that occurs on a specific date.
- (i) "Complete procedure" means a procedure that contains a series of steps which are not to be billed separately.
- (j) "Covered injury or illness" means an injury or illness for which treatment is mandated by section 315 of the act.
- (k) "Current Procedural Terminology" (CPT) means a listing of descriptive terms and identifying codes and provides a uniform nationally accepted nomenclature for reporting medical services and procedures. "Current Procedural Terminology" provides instructions for coding and claims processing.
- (l) "Dispute" means a disagreement between a carrier or a carrier's agent and a health care provider on the application of these rules.
- (m) "Durable medical equipment" means specialized equipment which is designed to stand repeated use, which is used to serve a medical purpose, and which is appropriate for home use.
- (n) "Emergency condition" means that a delay in treating a patient would lead to a significant increase in the threat to the patient's life or to a body part.
- (o) "Established patient" means a patient whose medical and administrative records for a particular covered injury or illness are available to the provider.
- (p) "Expendable medical supply" means a disposable article that is needed in quantity on a daily or monthly basis.
- (q) "Facility" means an entity licensed by the state in accord with the provisions of Act 368, Public Acts of 1978 as amended. The office of an individual practitioner is not considered a facility.
- (r) "Focused review" means the evaluation of a specific health care service or provider to establish patterns of use and dollar expenditures.
- (s) "Follow-up days" means the days of care following a surgical procedure that are included in the procedure's maximum allowable payment, but does not include care for complications. If the surgical procedure lists "xxx" for the follow-up days, then the global concept does not apply. If "yyy" is listed for follow-up days, then the carrier shall set the global period. If "zzz" is used, then the procedure code is part of another service and falls within the global period of the other service.
- (t) "Health care organization" means a group of practitioners or individuals joined together to provide health care services and includes any of the following:
  - (i) A health maintenance organization.
  - (ii) An industrial or other clinic.
  - (iii) An occupational health care center.

- (iv) A home health agency.
- (v) A visiting nurse association.
- (vi) A laboratory.
- (vii) A medical supply company.
- (viii) A community mental health board.
- (u) "Health care review" means the review of a health care case or bill, or both, by a carrier, and includes technical health care review and professional health care review.
- (v) "Incidental surgery" means a surgery which is performed through the same incision, on the same day, by the same doctor of dental surgery, doctor of medicine, doctor of osteopathy, or doctor of podiatry and which is not related to diagnosis.
- (w) "Independent medical examination" means an examination and evaluation which is requested by a carrier or an employee and which is conducted by a different practitioner than the practitioner who provides care.
- (x) "Independent procedure" means a procedure which may be carried out by itself, separate and apart from the total service that usually accompanies it.
- (y) "Insured employer" means an employer who purchases workers' compensation insurance from an insurance company that is licensed to write insurance in the state of Michigan.

**R 418.10109 Definitions; M to U.**

Rule 109. As used in these rules:

- (a) "Maximum allowable payment" means the maximum fee for a procedure that is established by these rules, a reasonable amount for a "by report" procedure, or a provider's usual and customary charge, whichever is less.
- (b) "Medical only case" means a case that does not involve wage loss compensation.
- (c) "Medical rehabilitation" means, to the extent possible, the interruption, control, correction, or amelioration of a medical or a physical problem that causes incapacity through the use of appropriate treatment disciplines and modalities that are designed to achieve the highest possible level of post-injury function and a return to gainful employment.
- (d) "Medically accepted standards" means a measure which is set by a competent authority as the rule for evaluating quantity or quality of health care or health care services ensuring that the health care is suitable for a particular person, condition, occasion, or place.
- (e) "Morbidity" means the extent of illness, injury, or disability.
- (f) "Mortality" means the likelihood of death.
- (g) "New Patient " means a patient who is new to the provider for a particular covered injury or illness and who needs to have medical and administrative records established.
- (h) "Nursing home" means a nursing care facility, including a county medical care facility, created pursuant to the provisions of Act No. 152 of the Public Acts of 1885, as amended, being §36.1 et seq. of the Michigan Compiled Laws.
- (i) "Orthotic equipment" means an orthopedic apparatus that is designed to support, align, prevent or correct deformities of, or improve the function of, a movable body part.
- (j) "Pharmacy" means the place where the science, art, and practice of preparing, preserving, compounding, dispensing, and giving appropriate instruction in the use of drugs is practiced.
- (k) "Practitioner" means an individual who is licensed, registered, or certified as defined in the Michigan public health code, Act 368 of 1978, (Articles 1, 7, 15, 19, and Excerpts from Article 5) as amended.
- (l) "Primary procedure" means the therapeutic procedure that is most closely related to the principal diagnosis.
- (m) "Properly submitted bill" means a request by a provider for payment of health care services which is submitted to a carrier on the appropriate completed claim form with attachments as required by these rules.
- (n) "Prosthesis" means an artificial substitute for a missing body part. A prosthesis is constructed by a "prosthetist", a person who is skilled in the construction and application of a prosthesis.
- (o) "Provider" means a facility, health care organization, or a practitioner.
- (p) "Reasonable amount" means a payment based upon the amount generally paid in the state for a particular procedure code using data available from the provider, the carrier, or the bureau of workers' disability compensation, health care services division.

(q) "Restorative" means that the patient's function will demonstrate measurable improvement in a reasonable and generally predictable period of time and includes appropriate periodic care to maintain the level of function.

(r) "Secondary procedure" means a surgical procedure which is performed to ameliorate conditions that are found to exist during the performance of a primary surgery and which is considered an independent procedure that may not be performed as a part of the primary surgery or for the existing condition.

(s) "Specialist" means any of the following entities who is board-certified, board-eligible, or otherwise considered an expert in a particular field of health care by virtue of education, training, and experience generally accepted in that particular field:

(i) A doctor of chiropractic.

(ii) A doctor of dental surgery.

(iii) A doctor of medicine.

(iv) A doctor of optometry.

(v) A doctor of osteopathic medicine and surgery.

(vi) A doctor of podiatric medicine and surgery.

(t) "Subrogation" means substituting one creditor for another. An example of subrogation in workers' compensation is when a case is determined to be workers' compensation and the health benefits plan has already paid for the service and is requesting the workers' compensation carrier or the provider to refund the money that the plan paid on behalf of the worker.

(u) "Technical surgical" assist denotes those surgical procedures where payment for an assistant is allowed in addition to the primary surgeon. Procedure codes that allow payment for the assistant surgeon are denoted by a "T."

(v) "Treatment plan" means a plan of care for restorative physical treatment services that indicates the diagnosis and anticipated goals.

(w) "Usual and customary charge" means a particular provider's average charge for a procedure to all payment sources, and includes itemized charges which were previously billed separately and which are included in the package for that procedure as defined by these rules. A usual and customary charge for a procedure shall be calculated based on data beginning January 1, 1995.

#### **R 418.10110 Program Information.**

Rule 110. The bureau shall provide ongoing information regarding these rules for providers, carriers, and employees. The program shall include distribution of appropriate information materials. The health care services division shall provide periodic informational sessions for providers, billing organizations, and carriers.

#### **R 418.10111 Advisory committee.**

Rule 111. The director of the bureau shall appoint an advisory committee from names solicited from provider, carrier, and employee organizations. The advisory committee shall include five advocates for the concerns of providers, five advocates for the concerns of employees, and five advocates for the concerns of carriers. The director of the bureau shall appoint a sixteenth member to act as chair without a vote. The advisory committee shall meet not less than twice a year. Additional meetings shall be scheduled if requested by the bureau, the chair, or a majority of the committee. Members may be removed by the director of the bureau for cause or for missing more than one-half of the meetings in a year. The advisory committee shall perform general program oversight including the following:

(a) Assist the bureau in annual review of the rules and the fee schedule.

(b) Assist the bureau in the development of proposed amendments to the rules and fee schedule, including payment methodologies.

(c) Assist the bureau in the review of data reports and data analyses.

(d) Review health care service disputes, resulting from a carrier's professional health care review program pursuant to these rules, that are considered by mediation, arbitration, small claims, or magistrate decisions, based on annual summary data regarding such disputes. This summary data shall be developed by the bureau and shall include information regarding carriers and providers which accounts for a significant number of disputes.

(e) Review annual summary data of complaints made to the bureau.

**R 418.10112 Missed appointment.**

Rule 112. A provider shall not receive payment for a missed appointment unless the appointment was arranged by the carrier or the employer. If the carrier or employer fails to cancel the appointment not less than 72 hours in advance and the provider is unable to arrange for a substitute appointment for that time, then the provider may bill the carrier for the missed appointment using procedure code 99199 with a maximum fee of BR.

**R 418.10113 Initial evaluation and management service; medical report other than inpatient hospital care.**

Rule 113. (1) Except as provided in subrule (2) of this rule, and for other than inpatient hospital care, a provider shall furnish the carrier, at no additional charge, with a medical report for the initial visit, all information pertinent to the covered injury or illness if requested at reasonable intervals, and a progress report for every 60 days of continuous treatment for the same covered injury or illness.

(2) If the provider continues to treat an injured or ill employee for the same covered injury or illness at intervals which exceed 60 days, then the provider shall provide a progress report following each treatment that is at intervals exceeding 60 days.

(3) The medical report of the initial visit and the progress report shall include all of the following information:

- (a) Subjective complaints and objective findings, including interpretation of diagnostic tests.
- (b) For the medical report of the initial visit, the history of the injury, and for the progress report, significant history since the last submission of a progress report.
- (c) The diagnosis.
- (d) As of the date of the medical report or progress report, the projected treatment plan, including the type, frequency, and estimated length of treatment.
- (e) Physical limitations.
- (f) Expected work restrictions and length of time if applicable.

**R 418.10114 Requests for existing medical records and reports.**

Rule 114. (1) Nothing in these rules shall preclude a carrier, a carrier's agent, an employee, or an employee's agent from requesting additional existing medical records and reports related to a specific date of injury, in addition to those specified in R 418.10113, or those required for proper submission of a bill from a provider.

**R 418.10115 Insured employer responsibility.**

Rule 115. The insured employer shall do all of the following:

- (a) Promptly file form 100, Employer's Basic Report of Injury, to report an injury that results in 7 or more days of disability, specific loss, or death, with the bureau and its insurer.
- (b) Promptly notify its insurer of the cases that do not result in 7 or more days of disability, specific loss, or death.
- (c) Promptly inform the provider of the name and address of its insurer or the designated agent of the insurer to whom health care bills should be sent.
- (d) If an insured employer receives a bill, then the insured employer shall promptly transmit the provider's bill and documentation to the insurer or the designated agent of the insurer regarding a related injury or illness.

**R 418.10116 Provider responsibilities.**

Rule 115. (1) A provider shall do both of the following:

- (a) Promptly bill the carrier or the carrier's designated agent after the date of service.
  - (b) Provide required documentation of services, which shall accompany the bill to the carrier or the carrier's designated agent.
- (2) If the provider has not received payment within 30 days of submitting a bill, then the provider shall send a second copy of the bill and may add a 3% late fee.

**R 418.10117 Carrier responsibilities.**

Rule 117. (1) The carrier or its designated agent shall assure that a billing form is completed properly before making payment.

(2) A carrier may designate a third party to receive provider bills on its behalf. The carrier shall instruct the provider to send the bills directly to the third party. The 30-day limit of this rule begins when the third party receives the bill.

(3) A carrier or designated agent shall make payment of an unadjusted and properly submitted bill within 30 days of receipt of a properly submitted bill.

(4) A carrier or designated agent shall make payment of an adjusted bill or portion of an adjusted bill within 30 days of receipt of the properly submitted bill. If a carrier or designated agent rejects a bill in its entirety, then the carrier or designated agent shall notify the provider of that rejection within 30 days after receipt of a properly submitted bill.

**R 418.10118 Practitioner, facility, and health care organization copying charge for medical records.**

Rule 118. (1) A practitioner, facility, or health care organization shall, at the request of the carrier, the carrier's agent, the employee, or the employee's agent, furnish copies of the case record for a particular covered injury or illness to the carrier, the carrier's agent, the employee, or the employee's agent. The maximum fee for providing copies shall be 25 cents per page, plus the actual cost of mailing. In addition, an administration charge for the staff's time to retrieve and copy the records shall be paid as follows:

0-30 minutes	\$3.50
31-60 minutes	\$7.00
each additional 30 minute increment	\$3.50

The copying and handling charge shall apply to all reports and records, other than the original copy required pursuant to the provisions of R 418.10113, and all other reports required by these rules. The party who requests the records shall pay the copying charge.

(2) The copying charge for each x-ray film requested by the carrier or the carrier's agent shall be reimbursed at \$7.00, which includes mailing and handling.

(3) If an agent of a carrier or an employee requests a copy of the case record, then the agent shall indicate the date of injury. Only the records for a specific date of injury covered by the act and these rules are available as specified in subrule (1) of this rule.

**R 418.10119 Facility medical audits.**

Rule 119. If a facility requires that a carrier conduct an on-site audit rather than providing the medical record, then prompt payment shall occur within 30 days of completing the on-site audit. If payment does not occur within 30 days of completing the on-site audit, then the carrier shall pay a 3% late fee.

**R 418.10120 Recovery of payment.**

Rule 120. (1) Nothing in this rule shall preclude the recovery of payment for services and bills which may later be found to have been medically inappropriate or paid at an amount that is more than the maximum allowable payment.

(2) If the carrier makes a request to the provider for the recovery of a payment within 1 year of the date of payment and includes a statement of the reasons for the request, then the carrier may recover a payment. The carrier may recover a payment made by an employee or the carrier.

(3) Within 30 days of receipt of the carrier's request for recovery of the payment, the provider shall do either of the following:



- (a) If the provider is in agreement with the request, then the provider shall refund the payment to the carrier.
- (b) If the provider is not in agreement with the request, then the provider shall supply the carrier with a written detailed statement of the reasons for its disagreement, together with a refund of the portion, if any, of the payment that the provider agrees should be refunded.
- (4) If the carrier does not accept the reason for disagreement supplied by the provider, then the carrier may file an application for mediation or hearing as provided for in R 418.101303 and R 418.101304. Within 30 days of receipt of the provider's statement of disagreement, the carrier shall file the application for mediation or hearing with the bureau and the carrier shall mail a copy to the provider.
- (5) If, within 60 days of the carrier's request for recovery of a payment, the carrier does not receive either a full refund of the payment or a statement of disagreement, then, at the option of the carrier, the carrier may do either or both of the following:
  - (a) File an application for mediation or hearing and mail a copy to the provider.
  - (b) Reduce the payable amount on the provider's subsequent bills to the extent of the request for recovery of payment.
- (6) If, within 30 days of a final order of a magistrate, the appellate commission, or the courts, a provider does not pay in full any refund ordered, then the carrier may reduce the payable amount on the provider's subsequent bills to the extent of the request for recovery of payment.

## **PART 2. MEDICINE**

### **R 418.10201 Medicine services; description.**

Rule 201. Medicine services shall be described with procedure codes 90281-99199.

### **R 418.10202 Evaluation and management services.**

- Rule 202. (1) Evaluation and management services include office visits, hospital visits, and consultations. Evaluation and management services or office visits are classified as the place of service and may be described as a new patient or subsequent or follow-up visit.
- (2) The maximum allowable payment for an evaluation and management service of a patient shall include all of the following:
    - (a) An examination.
    - (b) The evaluation and management code describing the examination, includes the gross assessment of the range of motion of joints. Procedure codes describing the range of motion services, 95851-95852, shall only be billed as a separate procedure to the worker's compensation carrier when the range of motion assessment is abnormal and the range of motion measurements are taken with a goniometer. If billing 95851-95852, the provider shall include a report documenting measurements taken.
    - (c) Minor medical and surgical supplies that are routinely used by the practitioner or health care organization in the office visit shall not be billed separately.
  - (3) Supplies, or other services, over and above those usually incidental to an office visit or other outpatient visit for the evaluation and management of a patient shall be billed separately under procedure code 99070.
  - (4) A service that is rendered between the hours of 6:00 p.m. and 7:00 a.m., Monday through Saturday, shall be billed using procedure code 99050 and the appropriate CPT procedure code describing the surgical service or evaluation and management service.
  - (5) A service that is rendered on Sundays or holidays until 7 a.m. of the following regular working day shall be billed using procedure code 99054 and the appropriate service level of office visit or other outpatient visit for the evaluation and management of a patient.
  - (6) Subrules (3) and (4) of this rule shall only apply if a provider performs a service after the practitioner's or health care organization's scheduled business hours.
  - (7) A procedure that is normally part of an examination or evaluation shall not be billed independently.
  - (8) The maximum allowable payment for the evaluation and management service shall be determined by multiplying the relative value assigned to the procedure code, times the conversion factor listed in the reimbursement section of these rules.



- (9) If counseling or coordination of care, or both, exceed 50% of the physician and patient encounter or the physician, patient, and family encounter, or both, time is the key or controlling factor that determines the evaluation and management service level. The extent of counseling and coordination of care, or both, shall be documented in the record.
- (10) The level of an office visit or other outpatient visit for the evaluation and management of a patient is not guaranteed and may change from session to session. The level of service shall be consistent with the type of presenting complaint and supported by documentation in the record.
- (11) Procedure codes 99455 and 99456 describing work-related or medical disability evaluation services, shall not be used to describe an evaluation and management service for treating a work-related injury or illness. Procedure codes 99201-99350 shall be used to describe the practitioner's medical treatment of an injured worker.
- (12) The carrier shall not reimburse the provider for procedure codes 90782-90799, administration of therapeutic injections, if billed in conjunction with an evaluation and management service. The medication administered in the therapeutic injection shall be billed using procedure code 99070, and identified with the national drug code number. The provider shall be reimbursed at the average wholesale price of the drug. If an evaluation and management service is not billed by the provider, then the appropriate procedure code describing the administration of the drug may be billed plus the average wholesale price of the drug and paid.
- (13) The provider may bill immunization procedure codes in addition to the evaluation and management procedure code. If the provider bills an immunization, the vaccine is described with procedure codes 90476-90748, and the administration of the vaccine is described with procedure code 90471 or 90472. The carrier shall reimburse the vaccine at the average wholesale price of the vaccine plus the cost of administration billed with procedure codes 90471 or 90472. Procedure code 90471 is reimbursed at \$5.00 and procedure code 90472 is reimbursed at \$7.50.

**R 418.10203 Office visit or other outpatient visit for evaluation and management of patient in conjunction with ongoing osteopathic manipulative treatment or chiropractic manipulative treatment.**

Rule 203. (1) The carrier shall reimburse for the initial evaluation and management examination billed by the provider before initiating chiropractic or osteopathic manipulation. The carrier shall also reimburse for osteopathic manipulative treatment or chiropractic manipulative treatment if the treatment is initiated on the same date of service.

(2) All of the following provisions apply to ongoing osteopathic manipulative treatment:

(a) Osteopathic manipulative treatment procedure codes include pre-manipulative patient evaluation. The physician may be a separate evaluation and management service using modifier code -25. The carrier shall only reimburse the service if the documentation provided supports significant change of signs and symptoms or the evaluation of another work related problem not included in the procedure or service that required the encounter. The physician shall document the rationale for the significant other service in the record.

(b) Osteopathic manipulations are to be billed using procedure codes 98925-98929.

(3) All of the following provisions apply to ongoing chiropractic manipulative treatment:

(a) The chiropractic manipulative treatment codes include a pre-manipulation patient evaluation. The provider may report a separate evaluation and management service using modifier -25 to designate a separate identifiable service. The carrier shall reimburse the evaluation and management service only when the provider documents significant change of signs and symptoms or the evaluation of another work related problem not included in the procedure or service that required the encounter. The provider shall document the rationale for the significant other service in the record.

(b) The carrier shall reimburse chiropractic manipulative treatment when the provider bills the service with procedure codes 98940-98942.

(4) If either a doctor of osteopathy or a doctor of chiropractic, conducts a periodic re-evaluation, then a report of the evaluation shall accompany the bill. A periodic re-evaluation report shall include all of the following information:

(a) A description of the evaluation of function in measurable terms based on physical findings and problem identification.

(b) A goal statement.

(c) A treatment plan.



- (d) Physical and functional improvement in measurable terms that has occurred in relationship to the diagnosis for which the treatment was prescribed.
- (e) The likelihood of continued improvement if treatment is continued.

**R 418.10204 Office visit or other outpatient visit; evaluation and management of patient's progress in physical treatment.**

Rule 204. (1) An office visit or other outpatient visit for the evaluation and management of a patient's progress in physical treatment shall only be billed when there is a change of signs or symptoms and when the referring or treating practitioner provides supporting documentation as described in subrule (2) of this rule. The supporting documentation shall indicate that it is medically appropriate for the practitioner to make the evaluation.

(2) Documentation shall include the referring or treating practitioner's statement that an office visit was medically necessary. In addition, a report shall state that an examination was conducted and shall set forth the specific findings by the practitioner, including all of the following:

- (a) A description of the evaluation of function in measurable terms based on physical findings and problem identification.
  - (b) A goal statement.
  - (c) A treatment plan.
  - (d) Physical and functional improvement in measurable terms that has occurred in relationship to the diagnosis for which physical medicine treatment was prescribed.
  - (e) The likelihood of continued improvement if physical medicine treatment were continued.
- (3) The report required pursuant to subrule (2) of this rule may be used to meet the reporting requirements of physical medicine services provided in these rules.
- (4) The office visit or other outpatient visit for the evaluation and management of a patient shall include the evaluation procedures that are appropriate to the diagnosis.
- (5) Nothing in this rule pertains to office visits or other outpatient visits for the evaluation and management of a patient that are not related to physical treatment.

**R 418.10205 Consultation services.**

Rule 205. (1) An attending physician, carrier, third-party administrator, or the injured worker may request a consultation. A physician specialist shall provide consultations using procedure codes 99241-99275 to describe the service.

(2) The carrier may request a provider other than the treating practitioner to perform a confirmatory consult. The physician specialist performing the confirmatory consult shall be bill procedure codes 99271-99275, defined in current procedural terminology, and shall be subject to the maximum payment allowance as defined in the reimbursement section of these rules.

(3) If a specialist performs diagnostic procedures or testing in addition to the consultation, the specialist shall bill the appropriate procedure code from current procedural terminology. The carrier shall reimburse the testing procedures in accordance with these rules.

(4) If a physician specialist performs a follow-up consultation, the services shall be described using procedure codes 99261-99263. If, after performing the initial consultation, a physician specialist assumes responsibility for management of a portion or all of the patient's condition or conditions, the physician specialist shall not use the follow-up consultation codes to describe office visits. The physician specialist shall use procedure codes 99211-99215 for follow-up care when assuming management of the patient's condition.

**R 418.10206 Emergency department evaluation and management visit.**

Rule 206. An emergency physician shall use emergency department evaluation and management service procedure codes to report an emergency department visit.

**R 418.10207 Mental health services.**

Rule 207. (1) A psychiatrist, only, shall use procedure codes 90805, 90807, 90809, 90811, 90813, 90815, 90817, 90819, 90822, 90824, 90827, and 90829 to describe treatment of a mental health condition, and shall not be billed in conjunction with, 99201-99499, an evaluation and management service.



(2) A psychiatrist shall use procedure codes 90801 and 90802 to describe a psychiatric diagnostic interview. A psychiatric consultation may be reported with procedure codes 99214-99263 and shall be limited to evaluation and does not include psychiatric treatment.

(3) An individual performing psychological testing shall report the services using procedure codes 96100-96117.

(4) Mental health providers shall use the following modifiers to describe the practitioner providing the health services:

- (a) -AH, For services provided by a licensed psychologist.
  - (b) -AL, For services provided by a limited licensed psychologist.
  - (c) -AJ, For services provided by a certified social worker.
  - (d) -LC, For services provided by a licensed professional counselor.
  - (e) -CS, For services provided by a limited licensed counselor.
  - (f) -MF, For services provided by a licensed marriage and family therapist.
  - (g) -ML, For services provided by a limited licensed marriage and family therapist.
- (5) Fees for mental health services are listed in Part 15, Table 1501-D

#### **R 418.10208 Vision services.**

Rule 208. (1) A medical diagnostic eye evaluation by a practitioner is an integral part of all ophthalmology services.

(2) Intermediate and comprehensive ophthalmological services include medical diagnostic eye evaluation and services, such as slit lamp examination, keratometry, ophthalmoscopy, retinoscopy, determination of refractive state, tonometry, or motor evaluation. These procedures shall not be billed in conjunction with procedure codes 92002, 92004, 92012, and 92014.

(3) Only an ophthalmologist or a doctor of optometry shall use procedure codes 92002, 92004, 92012, and 92014.

(4) A doctor of optometry shall use procedure codes 92002-92287 to describe services.

(5) An employer is not required to reimburse or cause to be reimbursed charges for an optometric service unless that service is included in the definition of practice of optometry under section 17401 of the Michigan Public Health Code, Act 368 of 1978, as amended, being § 333.17401 of the Michigan compiled laws, as of May 20, 1992.

(6) Suppliers of vision and prosthetic optical procedures shall use the appropriate procedure code V0000-V2999 listed in Medicare's National Level II Codes as referenced in 418.10107 (2) to describe services provided.

#### **R 418.10209 Hearing services.**

Rule 209. (1) A provider performing a comprehensive otorhinolaryngologic evaluation shall report the service using the appropriate evaluation and management service.

(2) A provider shall not report an otoscope, a rhinoscopy, or a tuning fork test in addition to a comprehensive ear evaluation or office visit.

(3) A provider performing special otorhinolaryngologic procedures, in addition to the evaluation, shall report those services using procedure codes 92507-92599.

(4) An audiologist and a speech therapist shall use procedure codes 92502-92599. An audiologist, a speech therapist, and a speech and hearing center shall use procedure codes 92502-92599 and procedure codes V5030-V5240 for hearing aid services.

(5) Hearing aid suppliers shall use the appropriate procedure code V5008-V5230 listed in Medicare's National Level II Codes as referenced in 418.10107(2) to describe services provided.

#### **R 418.10212 Physical and occupational therapy; physical medicine services.**

Rule 212. (1) For the purposes of worker's compensation, physical medicine services, procedure codes 97010-97799, shall be referred to as "physical treatment." Physical therapy means physical treatment provided by a licensed physical therapist. Occupational therapy means physical treatment provided by an occupational therapist.

(2) Physical medicine services shall be restorative. If documentation does not support the restorative nature of the treatment, then the service shall not be reimbursed.



(3) Any of the following may provide physical treatment, to the extent that licensure, registration, or certification law allows:

- (a) A doctor of medicine.
- (b) A doctor of osteopathic medicine and surgery.
- (c) A doctor of dental surgery.
- (d) A doctor of chiropractic.
- (e) A doctor of podiatric medicine and surgery.
- (f) A physical therapist.
- (g) An occupational therapist.

(4) Only a licensed physical therapist, certified occupational therapist, or licensed practitioner may use procedure codes 97001-97004 to describe the physical medicine and rehabilitation evaluation services. Only a certified occupational therapist or a licensed physical therapist shall perform codes WC500-WC600 for job site evaluation.

(5) If a practitioner performs and bills for physical treatment, then the practitioner shall do all of the following:

- (a) Perform an initial evaluation.
- (b) Develop a treatment plan.
- (c) Modify the treatment as necessary.
- (d) Perform a discharge evaluation.

The practitioner shall provide the carrier with an initial evaluation and a progress report every 30 calendar days and at discharge. Documentation requirements are the same as the requirements in R 418.10204(2).

(6) A provider shall report procedure code 97750 to describe a functional capacity evaluation. A maximum of 24 units or 6 hours shall be reimbursed by the carrier for the initial evaluation. No more than 4 additional units shall be billed for a re-evaluation occurring within 2 months.

(7) Physical medicine modalities are those agents applied to produce therapeutic changes to tissue and include but are not limited to thermal, acoustic, light, mechanical or electric energy.

(a) Supervised modalities include procedure codes 97010-97028. These codes do not require direct one-on-one patient contact by the provider. These modalities shall be performed in conjunction with a therapeutic procedure including manipulative services or the modalities shall not be reimbursed.

(b) Constant attendance modalities are those procedure codes 97032-97039 that require direct one-on-one patient contact by the provider.

(8) Therapeutic procedure codes 97110-97546 are procedures that effect change through the application of clinical skills and services that attempt to improve function. The physician or therapist shall have direct one-on-one patient contact.

(9) The following provisions apply to the listed modality services:

(a) Whirlpool shall only be reimbursed when done for debridement or as part of a restorative physical treatment program.

(b) Procedure 97010 shall not be reimbursed if the practitioner bills an evaluation and management service on the same date. Procedure code 97010 shall be used to bill hot or cold agents for any of the following reasons:

- (i) Hot packs.
- (ii) Hydrocollator packs.
- (iii) Heat lamps.
- (iv) Medconsonolator.
- (v) Fluidotherapy.
- (vi) Cryotherapy agents.
- (vii) Ice melts and ice massage.
- (viii) Vaporizing liquids.
- (ix) Refrigerated units.
- (x) Chemical packs.
- (xi) Cold packs.

(c) Not more than one deep heat procedure shall be billed on the same date of service for the same diagnosis. Deep heat procedures include diathermy, microwave, ultrasound, and phonophoresis.



(d) Phonophoresis shall be billed using procedure code 97035 with modifier code -22 and shall be reimbursed at the same rate as procedure code 97035, plus \$2.00 for the active ingredient used in the process.

Phonophoresis shall include the electrodes.

(e) Iontophoresis shall include the solution, medication, and the electrodes.

(f) Electrical stimulation shall include the electrodes.

(g) Procedure codes 97032, 97033, and 97035 shall not be reimbursed to a doctor of chiropractic.

#### **R 418.10213 Splints.**

Rule 213. (1) Extremity splints may be prefabricated, off-the-shelf, custom-made, or custom-fit.

(2) A provider shall report prefabricated, off-the-shelf splints using procedure code A4570 or 99070. If a certified occupational therapist or physical therapist needs to adapt a splint, then the therapist shall use modifier -22, and shall submit a report to describe the nature of the adaptation. A report shall be submitted to describe the nature of the adaptation.

(3) If a certified occupational therapist or physical therapist constructs an extremity splint, then the therapist shall bill the service using procedure code L3999. The carrier shall reimburse the splint as a by report procedure. The provider shall include the following information with the bill:

(a) A description of the splint.

(b) The time taken to construct or modify the splint.

(c) The charge for materials, if applicable.

#### **R 418.10214 Orthotic and prosthetic equipment.**

Rule 214. (1) A copy of a prescription by one of the following is required for prosthetic and orthotic equipment:

(a) A doctor of medicine.

(b) A doctor of osteopathic medicine and surgery.

(c) A doctor of chiropractic.

(d) A doctor of podiatric medicine and surgery.

(2) Orthotic equipment may be any of the following:

(a) Custom-fit.

(b) Custom-fabricated.

(c) Non-custom supply that is prefabricated or off-the-shelf.

(3) A non-custom supply shall be billed using procedure code 99070 or A4570 for a prefabricated splint.

(4) A board-certified orthotist or prosthetist who is certified by the American board for certification in orthotics and prosthetics, incorporated shall bill orthoses and prostheses that are custom-fabricated, molded to the patient, or molded to a patient model. In addition, a doctor of podiatric medicine and surgery may bill for a custom-fabricated or custom-fit, or molded patient model foot orthosis using procedure codes L3000-L3649.

(5) L-code procedures shall include fitting and adjustment of the equipment.

(6) Maximum allowable payments for L-code procedures are listed in Table 1510-C. If an L-code procedure does not have an assigned maximum allowable payment, then the procedure shall be by report, "BR."

(7) A provider may not bill more than 4 dynamic prosthetic test sockets without documentation of medical necessity. If the physician's prescription or medical condition requires utilization of more than 4 test sockets, then a report shall be included with the bill that outlines a detailed description of the medical condition or circumstances that necessitate each additional test socket provided.

### **PART 4. SURGERY**

#### **R 418.10401 Global surgical procedure.**

Rule 401. (1) A global surgical procedure shall include all of the following:

(a) All office, home, and hospital visits occurring after the physician determines the need for surgery or those visits that are related to, or are preparatory to, the surgery. A consult to determine the need for surgery is not considered part of the global procedure.

(b) Surgery, intra-operative procedures, and local anesthetic.

(c) Normal uncomplicated care occurring during the follow-up day period indicated for the surgical procedure.



(d) Removal of sutures shall always be included in the surgical procedure when removed by the same practitioner or by a practitioner in the same facility or health care organization where the initial surgery occurred.

(e) Operative report.

(2) Intra-operative procedures shall include any of the following:

(a) Local infiltration of medication at the time of operation.

(b) Suture removal by the operating physician.

(c) Surgical approach.

(d) Wound culture.

(e) Intra-operative photos and video imaging.

(f) Isolation of neurovascular structure.

(g) Simulation of nerves for identification.

(h) Wound irrigation.

(i) Intra-operative supervision and interpretation of imaging by the operating surgeon.

(j) Placement and removal of surgical drain or suction device.

(k) Wound closure.

(l) Application of the initial dressing, splint, or cast, including skin traction, except if specifically excluded from the package.

(m) All intra-operative services performed by the principal surgeon that are a necessary part of the primary operation.

**R 418.10403 Complication, exacerbation, recurrence, or presence of other disease or injury.**

Rule 403. (1) If a complication, exacerbation, recurrence, or the presence of other disease or injury exists that requires additional services, then the services shall be reported and identified by the appropriate procedure code.

(2) Reimbursement shall only be made for services related to, or resulting from, the covered work injury.

**R 418.10404 Follow-up care occurring during follow-up time period.**

Rule 404. (1) Follow-up care for a diagnostic procedure shall refer only to the days required to recover from the diagnostic procedure and not the treatment of the underlying condition.

(2) Follow-up care for a surgical procedure includes only routine, uncomplicated care as part of the surgical service. The follow-up days for the surgical procedures are adopted from the "RBRVS, Fee Schedule: A plain English Guide" as referenced in R 418.10107(c) with the exception of the procedures in table 404 that have 14 follow up days. The follow-up days for each surgical procedure are identified in the "global" column in the manual published by the bureau separate from these rules.

(3) Hospital follow-up care or a hospital visit by the practitioner responsible for the surgery shall be considered part of the surgical follow-up days listed for the procedure and shall not be paid as an independent procedure.

TABLE 404

13131	20802	20910	20971	21031	21077	21089	21137	21151	21182
13132	20805	20912	20972	21032	21079	21100	21138	21154	21183
14040	20808	20922	20973	21034	21080	21110	21139	21155	21184
15050	20816	20924	20999	21040	21081	21116	21141	21159	21188
15100	20822	20926	21010	21041	21082	21120	21142	21160	21193
15120	20824	20955	21015	21044	21083	21121	21143	21172	21194
15240	20827	20960	21025	21045	21084	21122	21145	21175	21195
20680	20838	20962	21026	21050	21086	21123	21146	21179	21196
20693	20900	20969	21029	21060	21087	21125	21147	21180	21198
20694	20902	20970	21030	21070	21088	21127	21150	21181	21206



21208	21245	21267	21310	21344	21387	21423			
21209	21246	21268	21325	21345	21390	21431			
21210	21247	21270	21330	21346	21395	21432			
21215	21248	21275	21335	21347	21400	21433			
21230	21249	21280	21336	21348	21401	21435			
21235	21255	21280	21337	21360	21406	21436			
21240	21256	21295	21338	21365	21407	21440			
21242	21260	21296	21339	21366	21408	21445			
21243	21261	21299	21340	21385	21421	21450			
21244	21263	21300	21343	21386	21422	21451			
21452	21820	22810	23184	23532	24105	24365	24675	25126	25355
21453	21825	22812	23190	23540	24110	24366	24685	25130	25360
21454	21899	22830	23195	23545	24115	24400	24800	25135	25365
21461	21925	22849	23200	23550	24116	24410	24802	25136	25370
21462	21930	22850	23210	23552	24120	24420	24900	25145	25375
21465	21935	22852	23220	23570	24125	24430	24920	25150	25390
21470	22100	22855	23221	23575	24130	24435	24925	25151	25931
21480	22101	22899	23222	23585	24134	24470	24930	25170	25392
21485	22102	22900	23331	23600	24136	24495	24931	25210	25933
21490	22110	22999	23332	23605	24138	24498	24935	25215	25400
21493	22112	23000	23395	23615	24140	24500	24940	25230	25405
21494	22114	23020	23397	23616	24145	24505	24999	25240	25415
21495	22210	23035	23400	23620	24147	24515	25000	25246	25420
21497	22212	23040	23405	23625	24150	24516	25020	25248	25425
21499	22214	23044	23406	23630	24151	24530	25023	25250	25426
21501	22220	23066	23410	23650	24152	24535	25028	25251	25440
21502	22222	23075	23412	23655	24153	24538	25031	25260	25441
21510	22224	23076	23415	23660	24155	24545	25035	25263	25442
21550	22305	23077	23420	23665	24160	24560	25040	25265	25443
21555	22310	23100	23430	23670	24164	24565	25065	25270	25444
21556	22315	23101	23440	23675	24200	24566	25066	25272	25445
21557	22325	23105	23450	23680	24201	24575	25075	25274	25446
21600	22326	23106	23455	23800	24301	24576	25076	25280	25447
21610	22327	23107	23460	23802	24305	24577	25077	25290	25449
21615	22548	23120	23462	23900	34320	27579	25085	25295	25450
21620	22554	23125	23465	23920	34330	24582	25100	25300	25455
21627	22556	23130	23466	23921	24331	24586	25101	25301	25490
21630	22558	23140	23470	23929	24340	24587	25105	25310	25491
21632	22590	23145	23472	23935	24342	24600	25107	25312	25492
21700	22595	23146	23480	24000	24350	24605	25110	25315	25500
21705	22600	23150	23485	24006	24351	24615	25111	25316	25505
21720	22610	23155	23490	24066	24352	24620	25112	25320	25515
21725	22612	23156	23491	24075	24354	24635	25115	25330	25520
21740	22630	23170	23500	24076	24356	24650	25116	25331	25525
21750	22800	23172	23505	24077	24360	24655	25118	25332	25526
21800	22802	23174	23515	24100	24361	24665	25119	25335	25530
21805	22804	23180	23520	24101	24362	24666	25120	25337	25535
21810	22808	23182	23530	24102	24363	24670	25125	25350	25545



25560	25660	25905	26035	26123	26236	26392	26445	26490	
25565	25670	25907	26037	26125	26250	26410	26449	26492	
25574	25675	25909	26040	26130	26255	26412	26450	26494	
25575	25676	25915	26045	26135	26260	26415	26455	26496	
25600	25680	25920	26055	26140	26261	26416	26460	26497	
25605	25685	25922	26060	26145	26262	26418	26471	26498	
25611	25690	25924	26070	26160	26350	26420	26474	26499	
25620	25695	25927	26075	26170	26352	26426	26476	26500	
25622	25800	25929	26080	26180	26356	26428	26477	26502	
25624	25805	25931	26100	26200	26357	26432	26478	26504	
25628	25810	25999	26105	26205	26358	26433	26479		
25630	25820	26020	26115	26210	26370	26434	26480		
25635	25825	26025	26116	26215	26370	26437	26483		
25645	25830	26030	26117	26230	26373	26440	26485		
25650	25900	26034	26121	26235	26390	26442	26489		
26508	26593	26776	27060	27151	27250	27356	27438	27513	27604
26510	26596	26785	27062	27156	27252	27357	27440	27514	27607
26516	26597	26820	27065	27161	27253	27360	27441	27516	27610
26517	26600	26841	27066	27165	27254	27365	27442	27517	27612
26518	26605	26842	27067	27170	27265	27372	27443	27519	27614
26520	26607	26843	27070	27176	27266	27380	27445	27520	27620
26525	26608	26844	27071	27177	27275	27381	27446	27524	27625
26530	26615	26850	27075	27178	27280	27385	27447	27530	27626
26531	26641	26852	27076	27179	27282	27386	27448	27532	27630
26535	26645	26860	27077	27181	27284	27390	27450	27535	27635
26536	26650	26861	27078	27187	27286	27391	27454	27536	27637
26540	26665	26862	27079	27193	27290	27392	27465	27538	27638
26541	26670	26863	27080	27194	27295	27393	27466	27540	27640
26542	26675	26910	27086	27200	27299	27394	27468	27550	27641
26545	26676	26951	27087	27202	27301	27395	27470	27552	27650
26548	26685	26952	27090	27215	27303	27396	27472	27556	27652
26550	26686	26989	27091	27216	27305	27397	27475	27558	27654
26552	26700	26990	27097	27217	27306	27400	27477	27560	27656
26555	26705	26991	27098	27218	27307	27403	27479	27562	27658
26557	26706	26992	27100	27220	27310	27405	27486	27566	27659
26558	26715	27000	27105	27226	27315	27407	27487	27570	27664
26559	26720	27001	27110	27227	27320	27409	27488	27580	27665
26560	26725	27003	27111	27228	27324	27418	27495	27590	27675
26561	26727	27005	27120	27230	27330	27420	27500	27591	27676
26562	26735	27006	27122	27232	27331	27422	27501	27592	27680
26565	26740	27025	27125	27235	27332	27424	27502	27594	27681
26567	26742	27030	27130	27236	27333	27425	27503	27596	27685
26568	26746	27033	27132	27238	27334	27427	27506	27598	27686
26580	26750	27035	27134	27240	27335	27428	27507	27599	27687
26585	26755	27041	27137	27244	27340	27429	27508	27600	27690
26587	26765	27050	27140	27245	27345	27430	27509	27601	27691
26590	26770	27052	27146	27246	27350	27435	27510	27602	27692
26591	26775	27054	27147	27248	27355	27437	27511	27603	27695



27696	27762	27830	27893	28086	28220	28315	28495	28675	29820
27698	27766	27831	27894	28088	28222	28320	28496	28705	29821
27700	27780	27832	27899	28090	28225	28322	28505	28715	29822
27702	27781	27840	28003	28092	28226	28400	28510	28725	29823
27703	27784	27842	28005	28120	28230	28406	28515	28730	29825
27701	27786	27846	28010	28122	28232	28415	28525	28740	29826
27705	27788	27848	28011	28124	28234	28420	28531	28750	29830
27707	27792	27860	28020	28126	28238	28430	28540	28755	29834
27709	27808	27870	28022	28130	28240	28435	28545	28760	29835
27712	27810	27871	28024	28140	28250	28436	28546	28800	
27720	27814	27880	28030	28150	28260	28445	28555	28805	
27724	27816	27881	28035	28153	28261	28450	28570	28810	
27745	27818	27832	28050	28160	28264	28455	28575	28820	
27750	27822	27882	28052	28192	28270	28456	28576	28825	
27752	27823	2788	28054	28193	28272	28470	28585	28899	
27756	27826	27886	28060	28200	28300	28475	28600	29799	
27758	27827	27888	28062	28202	28302	28476	28605	29804	
27759	27828	27889	28070	28208	28304	28485	28615	29815	
27760	27829	27892	28072	28210	28305	28490	28645	29819	
29836	29845	29855	29876	29883	29889	29909	64830		
29837	29846	29856	29877	29884	29894	35206	64831		
29838	29847	29870	29879	29885	29895	35207	64856		
29840	29848	29871	29880	29886	29897	64718	64891		
29843	29850	29874	29881	29887	29897	64719			
29844	29851	29875	29882	29888	29898	64721			

#### **R 418.10405 Injections.**

Rule 405. (1) If 3 or more injections into joints or bursae are billed within 1 month, the bill shall include documentation of medical necessity.

(2) An injection procedure shall include all of the following:

- (a) Introduction of needles or catheters.
- (b) Local anesthesia.
- (c) Necessary pre-injection and post-injection care specifically related to the injection procedure.

#### **R 418.10406 Integumentary system; wound repair.**

Rule 406. (1) The provider shall bill a wound repair as follows:

- (a) The provider shall measure and record in centimeters, and describe the repaired wound as curved, angular, or stellate.
- (b) The wound repair shall be classified as simple, intermediate or complex. If multiple wounds are repaired, the lengths in each classification and from all anatomic sites are grouped together into the same code descriptor and reported as a single item.
- (c) If more than 1 classification of wound is repaired, then the provider shall list the most complicated wound repair as the primary procedure and the less complicated as the secondary procedure, using modifier -51.
- (2) The Integumentary repair includes surgical cleansing and trimming of the wound edges and the carrier shall not reimburse as an separate procedure.
- (3) Simple ligation of vessels in an open wound shall be considered as part of any wound closure, and the carrier shall not reimburse as a separate procedure.
- (4) Simple exploration of nerves, blood vessels, or tendons exposed in an open wound shall be considered part of the essential treatment of the wound, and is not an independent procedure unless appreciable dissection is required.



(5) The repair of nerves, blood vessels, and tendons shall be considered as part of the primary procedure, except when the wound is complex, in which case modifier code -51 applies.

(6) Excision and repair by adjacent tissue transfer, or both, or rearrangement, Z-plasty, V-Y plasty, W-plasty, rotation flap, advanced flap, or double pedicle flap, shall apply only if the procedure listed must be developed by the practitioner to accomplish the repair, and shall not apply when direct closure or rearrangement of traumatic wounds incidentally result in these configurations.

#### **R 418.10407 Debridement.**

Rule 407. (1) Debridement shall be considered an independent procedure only if gross contamination requires prolonged cleansing, if appreciable amounts of devitalized or contaminated tissue are removed, or if debridement is performed without immediate primary closure.

(2) If the practitioner bills a debridement procedure code, then the operative report shall include a full description of the debridement. If the operative report does not include a full description of the debridement, then the debridement procedure shall not be paid.

#### **R 418.10410 Incidental surgeries.**

Rule 410. The carrier shall not pay a bill for an incidental surgery which is not part of the primary procedure performed, and for which there is no diagnostic evidence or relationship to the covered work injury.

#### **R 418.10411 Casting and strapping procedures.**

Rule 411. (1) A casting or strapping procedure code shall include the supplies and the application and removal of the cast or strapping when rendered by the same practitioner.

(2) Procedure codes 29000-29740 apply as follows:

(a) The cast application or strapping is a replacement procedure used during or after the period of follow-up care.

(b) The cast application or strapping is an initial service performed without a restorative treatment procedure or procedures to stabilize or protect a fracture, injury, or dislocation. The cast application or strapping may also be used to afford comfort to a patient.

(3) Restorative treatment procedure or procedures rendered by another physician following the application of the initial cast, splint, or strap may be reported with a treatment of fracture and or dislocation code.

(4) A physician who applies the initial cast, strap, or splint and also assumes all of the subsequent fracture, dislocation, or injury care shall not use the application of casts and strapping codes as an initial service, because the first cast, splint, or strap application is included in the treatment of fracture and dislocation codes.

(5) A temporary cast, splint, or strap is not considered part of the preoperative care, and the use of modifier code -56 is not applicable. Additional evaluation and management services are reportable only if further significant identifiable services are provided at the time of the cast application or strapping.

(6) If a cast application or strapping is provided as an initial service (e.g., casting of a sprained ankle or knee) in which no other procedure or treatment (e.g., surgical repair, reduction of a fracture or joint dislocation) is performed or is expected to be performed by a physician rendering the initial care only, use the casting, strapping code in addition to an evaluation and management code as appropriate.

#### **R 418.10415 Starred (\*) surgical procedures.**

Rule 415. (1) When the starred (\*) surgical procedure is carried out at the time of an initial visit (new patient) and this procedure constitutes the major service at that visit, procedure code 99025 is listed in place of the usual initial visit as an additional service.

(2) When the starred (\*) surgical procedure is carried out at the time of an initial or established visit involving significant identifiable services, the appropriate visit is listed with modifier -25 in addition to the starred (\*) surgical procedure and its follow-up care.

(3) When the starred (\*) surgical procedure requires hospitalization, an appropriate hospital visit is listed in addition to the starred (\*) surgical procedure and its follow-up care.

(4) A starred (\*) surgical procedure, minor surgical procedure, shall include the services specified in R 418.401 and the 10-day follow-up period for the designated procedure code.



- (6) When follow-up days are not included in the starred (\*) surgical procedure, all postoperative care is added on a service-by-service basis.
- (7) Complications are added on a service-by-service basis (as with all surgical procedures).

**R 418.10416 Assistant surgeon.**

Rule 416. (1) The carrier shall reimburse for an assistant surgeon service for those surgical procedures preceded by a "T," in the health care services manual published separate from these rules.

(2) One of the following shall provide assistant surgeon services:

- (a) A doctor of dental surgery.
- (b) A doctor of osteopathy.
- (c) A doctor of medicine.
- (d) A doctor of podiatry.
- (e) A physician's assistant.
- (f) A nurse with a specialty certification.

**R 418.10417 Ophthalmological surgical procedures.**

Rule 417. Ophthalmological surgical procedure codes for the removal of a foreign body include topical anesthesia, fluorescein staining, and lavage.

**PART 5. RADIOLOGY, RADIATION THERAPY, AND NUCLEAR MEDICINE**

**R 418.10501 Complete radiologic procedures.**

Rule 501. The complete radiologic procedure does not include the cost of radioisotopes. The complete procedure shall include the cost of all of the following, where applicable, with respect to the radiological service:

- (a) Personnel.
- (b) Materials.
- (c) Contrast media, except for gadolinium and low osmolar contrast medium, and drugs.
- (d) Film or xerograph.
- (e) Space.
- (f) Equipment.
- (g) Supervision.
- (h) Interpretation.
- (i) Injection procedures.

**R 418.10502 Supervision and interpretation procedures.**

Rule 502. (1) If a radiology procedure is performed by two physicians, the radiologic portion of the procedure is designated as the "radiological supervision and interpretation."

(2) If a physician performs the procedure and provides imaging supervision and interpretation, then a combination of procedure codes outside the 70000 series of codes is used by the provider to report the service.

(3) If an x-ray is taken in a hospital, then the radiologist shall be paid the professional component of the procedure code and the hospital shall be paid the technical component.

(4) The carrier shall reimburse for a complete radiology procedure performed and billed by an independent radiology clinic or a doctor of chiropractic, doctor of dental surgery, doctor of medicine, doctor of osteopathy, or doctor of podiatry in the practitioner's office.

(5) The carrier shall not pay for review of an x-ray by a practitioner other than the radiologist or the practitioner who performs the complete radiology procedure. If a provider reviews an x-ray during an evaluation and management service, then the carrier shall not pay for review of the x-ray as a separate procedure, because the evaluation and management service includes review of tests and measurements.

**R 418.10503 Injection procedures.**

Rule 503. An injection procedure for radiography shall include all usual pre-injection and post-injection care specifically related to the injection procedure necessary for local anesthesia, placement of needle or catheter, and injection of contrast media.

**PART 7. DENTAL****R 418.10701 Scope.**

Rule 701. (1) Dental services, related to, or resulting from, a covered work-related injury are covered under these rules. Incidental dental services are not covered.

(2) The bureau shall publish a copy of the claim form and instructions for completion separate from these rules.

**PART 9. BILLING****SUBPART A. PRACTITIONER BILLING****R 418.10901 General Information.**

Rule 901. (1) All health care practitioners and health care organizations, as defined in these rules, shall submit charges on the proper claim form as specified in this rule. Copies of the claim forms and instruction for completion for each form shall be published separate from these rules in a manual distributed by the health care services division of the bureau.

(a) A practitioner shall submit charges on the HCFA 1500 claim form.

(b) A doctor of dentistry shall submit charges on a standard dental claim form approved by the American Dental Association.

(c) A pharmacy, other than an inpatient hospital, shall submit charges on an invoice or a pharmacy universal claim form.

(d) A hospital-owned occupational, industrial clinic, or office practice shall submit charges on the HCFA 1500 claim form.

(e) A hospital billing for a practitioner service shall submit charges on a HCFA 1500 claim form.

(f) Ancillary service charges shall be submitted on the HCFA 1500 claim form for home health, ambulance, vision, and hearing services.

(g) A shoe supplier or wig supplier shall submit charges on an invoice.

(2) A provider shall submit all bills to the carrier within one year of the date of service for consideration of payment except in cases of litigation or subrogation.

(3) A properly submitted bill shall include the following appropriate documentation:

(a) A copy of the medical report for the initial visit.

(b) An updated progress report if treatment exceeds 60 days.



- (c) A copy of the initial evaluation and a progress report every 30 days of physical treatment, physical or occupational therapy, or manipulation services.
- (d) A copy of the operative report or office report if billing surgical procedure codes 10040-69990.
- (e) A copy of the anesthesia record if billing anesthesia codes 00100-01999.
- (f) A copy of the radiology report if submitting a bill for a radiology service accompanied by modifier -26.
- (g) A report describing the service if submitting a bill for a "by report" procedure.
- (h) A copy of the medical report if a modifier is applied to a procedure code to explain unusual billing circumstances.

**R 418.10904 Procedure codes and modifiers.**

Rule 904. (1) A health care service shall be billed with procedure codes adopted from "Current Procedural Terminology" or "HCPCS, Medicare's National Level II Codes," as referenced in R 418.10107 of these rules. These codes shall not be included in these rules, but shall be listed in a separate manual published by the bureau. Refer to "Current Procedural Terminology" for standard billing instructions, except where otherwise noted in these rules.

(2) The following ancillary service providers shall bill codes from "HCPCS, Medicare's National Level II Codes" as referenced in R 418.10107 of these rules to describe the ancillary services:

- (a) Ambulance providers.
- (b) Certified orthotists and prosthetists.
- (c) Medical suppliers, including expendable and durable equipment.
- (d) Hearing aid vendors and suppliers of prosthetic eye equipment.

(3) A home health agency shall bill a code from the following table to describe nursing assessments, skilled care, or home health aides per hour.

WC Code	Description
HO100	Skilled nursing care
HO300	Nursing care evaluation
HO550	Home health aide per hour
H9999	Not otherwise classified

(4) If a practitioner performs a procedure that cannot be described by one of the listed CPT or HCPCS codes, then the practitioner shall bill the unlisted procedure code. An unlisted procedure code shall only be reimbursed when the service cannot be properly described with a listed code and the documentation supporting medical necessity includes the following:

- (a) Description of the service.
- (b) Documentation of the time, effort, and equipment necessary to provide the care.
- (c) Complexity of symptoms.
- (d) Pertinent physical findings.
- (e) Diagnosis.
- (f) Treatment plan.

(5) The provider shall add a modifier code to the end of the correct procedure code to describe unusual circumstances arising in the treatment of a covered injury or illness or to describe the practitioner who performs the service.

(a) If a modifier code is applied to a procedure, then the report shall include the circumstance requiring the use of a modifier code.

(b) Modifier codes are as follows:



**TABLE 10904**  
**Modifier Codes**

- 21 Prolonged evaluation and management service: When the face-to-face, floor, or unit service or services provided are prolonged or otherwise greater than that usually required for the highest level of evaluation and management service within a given category, it shall be identified by adding modifier -21 to the evaluation and management code.
- 22 Unusual services: When the service or services provided is greater than that usually required for the listed procedure, it shall be identified by adding modifier -22 to the usual procedure code.
- 23 Unusual anesthesia: Occasionally, a procedure which usually requires either no anesthesia or local anesthesia, because of unusual circumstances, must be done under general anesthesia. The procedure shall be reported by adding modifier -23 to the procedure code of the basic service.
- 24 Unrelated evaluation and management service by the same physician during postoperative period: If the physician needs to indicate that an evaluation and management service was performed during a postoperative period for a reason or reasons unrelated to the original problem, the circumstance shall be reported by adding the modifier -24.
- 25 Significant, separately identifiable evaluation and management service by the same physician on the same day of the procedure or other service: If the physician needs to indicate that on the day a procedure or service identified by a CPT code was performed, the patient's condition required a significant, separate identifiable evaluation and management service above and beyond the other service provided or beyond the usual preoperative and postoperative care associated with the procedure that was performed, the circumstance shall be reported by adding the modifier -25 to the appropriate level of evaluation and management service. Modifier -25 shall not be used to report an evaluation and management service that results in a decision to perform surgery.
- 26 Professional component: Certain procedures are a combination of a professional component and a technical component. When the physician component is reported separately, the service shall be identified by adding the modifier -26 to the usual procedure code.
- 32 Mandated services: Services related to mandated consultation or related services, or both, shall be identified by adding the modifier -32 to the basic procedure.
- 47 Anesthesia by surgeon: Regional or general anesthesia provided by the surgeon shall be reported by adding the modifier -47 to the basic procedure code. This does not include local anesthesia.
- 50 Bilateral procedure: Unless otherwise identified in the listings, bilateral procedures that are performed at the same operative session shall be identified by adding modifier -50 to the appropriate procedure code.
- 51 Multiple procedures: When multiple surgical procedures/services (other than evaluation and management) are performed at the same session, by the same provider, the primary procedure or service is reported as listed. The additional procedures shall be identified by appending the modifier -51. Note: This modifier shall not be appended to designated add-on codes listed in CPT.
- 52 Reduced services: Under certain circumstances, a procedure is partially reduced or eliminated at the practitioner's discretion. Under these circumstances, the service provided shall be identified by its usual procedure code and the addition of the modifier -52.
- 53 Discontinued procedure: If the physician elects to terminate a surgical or diagnostic procedure because of extenuating circumstances or circumstances that threaten the well being of the patient, the decision to terminate or discontinue the procedure shall be reported by adding modifier -53 to the code of the discontinued procedure. Modifier -53 shall not be used to report the elective cancellation of a procedure before the patient's anesthesia induction or surgical preparation in the operating suite, or both.
- 54 Surgical care only: When 1 practitioner performs a surgical procedure and another provides preoperative or postoperative management or both, surgical services shall be identified by adding the modifier -54 to the procedure code.



- 55 Postoperative management only: When 1 practitioner performs the postoperative management and another practitioner performs the surgical procedure, the postoperative component shall be identified by adding the modifier -55 to the usual procedure code.
- 56 Preoperative management only: When 1 practitioner performs the preoperative care and evaluation and another practitioner performs the surgical procedure, the preoperative component shall be identified by adding modifier -56 to the usual procedure code.
- 57 Decision for surgery: An evaluation and management service that results in the initial decision to perform the surgery may be identified by adding modifier -57 to the appropriate level of evaluation and management service.
- 58 Staged or related procedure or service by the same physician during the postoperative period: If the physician needs to indicate that the performance of a procedure or service during the postoperative period was planned prospectively at the time of the original procedure, was more extensive than the original procedure, or was for therapy following a diagnostic surgical procedure, the circumstance shall be reported by adding modifier -58 to the staged or related procedure.
- 59 Distinct procedural service: If the physician needs to indicate that a procedure or service was distinct or independent from the other services performed on the same day, modifier -59 shall be used to identify the procedure or service, or both that are not normally reported together, but are appropriate under the circumstances.
- 62 Two surgeons: When 2 surgeons work together as primary surgeons performing distinct parts of a single reportable procedure, each surgeon should report his distinct operative work by adding the modifier -62 to the single definitive procedure code. Each surgeon should report the co-surgery once using the same procedure code. If additional procedure or procedures are performed during the same surgical session, separate codes may be reported without the modifier -62. Note: If a co-surgeon acts as an assistant in the performance of additional procedures during the same surgical session, those services may be reported using separate procedures with modifier -80 or -81 as appropriate.
- 66 Surgical team: Under some circumstances, highly complex procedures require the concomitant services of several physicians, often of different specialties, and other highly skilled, specially trained personnel who utilize various types of complex equipment are carried out under the "surgical team" concept. This circumstance shall be identified by each participating physician by adding modifier -66 to the basic procedure code number used for reporting services.
- 76 Repeat procedure by same practitioner: When the practitioner needs to indicate that a procedure or service was repeated subsequent to the original service, the practitioner shall report the repeat procedure or service by adding modifier -76 to the procedure code.
- 77 Repeat procedure by another practitioner: The practitioner may need to indicate that a basic procedure performed by another practitioner had to be repeated. This shall be reported by adding modifier -77 to the repeated service.
- 78 Return to the operating room for a related procedure during the postoperative period: When the physician needs to indicate that another procedure was performed during the postoperative period of the initial procedure and the subsequent procedure is related to the first and requires the use of the operating room, the subsequent procedure shall be reported by adding modifier -78 to the related procedure code.
- 79 Unrelated procedure or service by the same physician during the postoperative period: When the physician needs to indicate that the performance of a procedure or service during the postoperative period was unrelated to the original procedure, modifier -79 shall be used to describe the circumstance.
- 80 Assistant surgeon: When surgical assistant services are provided by a doctor of dental surgery, doctor of medicine, doctor of osteopathy, or a doctor of podiatry, modifier -80 shall be added to the usual procedure code or codes to identify the service.
- 81 Minimum assistant surgeon: When surgical assistant services are provided by a physician's assistant or nurse practitioner, modifier -81 shall follow the appropriate procedure code or codes to identify the service.
- 90 Reference, outside, laboratory: When laboratory procedures are performed by a party other than the treating or reporting practitioner, the procedure shall be identified by adding the modifier -90 to the usual procedure code.
- 99 Multiple modifiers: When 2 or more modifiers are necessary to delineate a service, modifier -99 shall follow the basic procedure, and other applicable modifiers shall be listed as a part of the description of the service.



- SA Supervision of anesthesia services: When an anesthesiologist supervises a certified registered nurse anesthetist or anesthesiology resident, modifier -SA shall follow the appropriate anesthesia procedure code.
- AA Anesthesiologist services: When an anesthesiologist bills for services performed by the anesthesiologist, modifier -AA shall follow the appropriate anesthesia procedure code.
- AH Licensed psychologist: When a licensed psychologist bills a diagnostic service or a therapeutic service, or both, modifier -AH shall follow the appropriate procedure code.
- AJ Certified social worker: When a certified social worker bills a service, modifier -AJ shall follow the appropriate procedure code.
- AK Nurse with a specialty certification: When a nurse with a specialty certification, as defined in these rules, bills a service other than assistant at surgery, modifier -AK shall follow the appropriate procedure code.
- AL Limited license psychologist: When a limited license psychologist bills a diagnostic service or a therapeutic service, or both, modifier -AL shall follow the appropriate procedure code.
- AU Physician's assistant: When a physician's assistant bills a service other than assistant at surgery, modifier -AU shall follow the appropriate procedure code.
- CS Limited licensed counselor: When a limited licensed counselor bills a service, modifier -CS shall follow the appropriate procedure code.
- LC Licensed professional counselor: When a licensed professional counselor performs a service, modifier -LC shall follow the appropriate procedure code.
- MF Licensed marriage and family therapist: When a licensed marriage and family therapist performs a service, modifier -MF shall follow the appropriate procedure code.
- ML Limited licensed marriage and family therapist: When a limited licensed marriage and family therapist performs a service, modifier -ML shall follow the appropriate procedure code.
- PC Patient-controlled analgesia: When a service is provided by a physician who owns the patient-controlled analgesia equipment, modifier -PC shall follow procedure code 01999.
- TC Technical component of a service, e.g., technical component of a radiology service.
- QX Certified registered nurse anesthetist: When a certified registered nurse anesthetist performs a service under the direction of an anesthesiologist, modifier -QX shall follow the appropriate anesthesia procedure code.
- QZ Certified registered nurse anesthetist base units: When a certified registered nurse anesthetist performs and bills base units, modifier -QZ shall follow the appropriate anesthesia procedure code.

**R 418.10905 Billing for physical and occupational therapy.**

Rule 905. (1) A physical or occupational therapist shall bill procedure codes 97001-97799. A certified occupational therapist or physical therapist in independent practice shall place his or her signature and license or certification number on the bill.

(2) Only a certified occupational therapist or a licensed physical therapist shall bill for job site evaluation or treatment. The reimbursement for these procedures shall be contractual between the carrier and provider and shall be billed as listed in the following table:

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WC500 Job site evaluation; patient specific, initial 60 minutes

WC505 each additional 30 minutes, by contractual agreement

WC550 Job site treatment; patient specific, initial 60 minutes

WC555 each additional 30 minutes, by contractual agreement

WC600 Mileage for job site evaluation or job site treatment per mile

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(3) Procedures 97504 and 97520 shall only be reimbursed when billed by an occupational or physical therapist.



(4) Only a licensed, registered, or certified physical or occupational therapist shall bill for work hardening services, "by report" procedure codes 97545 and 97546.

**R 418.10907 Billing codes for site of service and type of service.**

Rule 907. (1) If a provider, other than a dentist, completes a billing form, then the place of service shall be identified by using 1 of the following codes:

- (a) 1 or 21 - Inpatient hospital.
- (b) 2 or 22 - Outpatient hospital.
- (c) 3 or 11 - Office or clinic.
- (d) 4 or 12 - Patient home.
- (e) 5 or 52 - Day care facility (psychiatric facility/part hospital).
- (f) 7 or 32 - Nursing home/nursing facility.
- (g) 8 or 31 - Skilled nursing facility.
- (h) 9 or 41 - Ambulance (land).
- (i) 0 or 99 - Other locations (other unlisted facility).
- (j) A or 81 - Independent laboratory.
- (k) B or 24 - Other medical/surgical facility (free-standing outpatient surgical center).
- (l) C - Residential treatment center (adult foster care).
- (m) G or 23 - Emergency room - hospital.
- (n) J or 33 - Custodial care.
- (o) K or 34 - Hospice.
- (p) L or 42 - Ambulance (air or water).
- (q) M or 51 - Inpatient psychiatric facility.
- (r) N or 53 - Community mental health.
- (s) O or 56 - Psychiatric residential facility.

(2) If a provider completes a billing form, the type of service shall be identified using 1 of the following codes listed below:

- (a) 1 - Medical care.
- (b) 2 - Surgery.
- (c) 3 - Consultation.
- (d) 4 - Diagnostic x ray.
- (e) 5 - Diagnostic laboratory.
- (f) 6 - Radiation therapy.
- (g) 7 - Anesthesia.
- (h) 8 - Assistance at surgery.
- (i) 9 - Other medical service.
- (j) 0 - Blood or packed red cells.
- (k) A - Used durable medical equipment.
- (l) F - Ambulatory surgical center.
- (m) H - Hospice.
- (n) L - Renal supplies in the home.

**R 418.10911 Billing requirements for ancillary services.**

Rule 911. (1) A bill for the following ancillary services shall include a copy of a written prescription by a licensed practitioner. Documentation of a prescription drug or medical supply in the clinical record shall constitute the prescription for services dispensed in a practitioner's office or in a health care organization.

- (a) Prescription medications.
- (b) Medical supplies and equipment, except when dispensed by a facility or health care organization.
- (c) Hearing aids, shoes, and wigs.
- (d) Home health services.
- (e) Orthoses and prostheses.
- (f) Physical and occupational therapy.

**R 418.10912 Billing for prescription medications.**

(1) These rules shall apply to a provider of prescription drugs only after the pharmacy has either written or oral confirmation from the carrier that the prescriptions or supplies are covered by workers' compensation insurance.

(2) A bill or receipt for a prescription drug from an outpatient pharmacy, practitioner, or health care organization shall include all of the following information:

- (a) The brand or chemical name of the drug dispensed.
- (b) The manufacturer or the supplier's name.
- (c) The dosage, strength, and quantity dispensed of the drug.
- (d) The name and address of the pharmacy that dispensed the drug.
- (e) The serial number of the prescription.
- (f) The date the drug was dispensed.
- (g) The name of the prescriber of the drug.
- (h) The name, address, and social security number of the patient.
- (i) The price for which the drug was sold to the purchaser.
- (j) The national drug code number.
- (k) The national association board of pharmacy identification number.

(3) If a practitioner or health care organization other than an inpatient hospital dispenses a prescription drug, then procedure code 99070 shall be used to code the procedure and the national drug code number from the "Red Book" shall be used to identify the drug.

(4) If a practitioner or a health care organization other than an inpatient hospital dispenses a drug, then the practitioner shall bill WC700 to describe the dispense fee each prescription drug. Not more than 1 dispense fee of \$4.00 shall be paid per each prescription drug in a 10-day period. A dispense fee shall not be billed with "OTC"'s, over-the-counter drugs.

**R 418.10913 Billing for durable medical equipment and supplies.**

Rule 913. (1) A bill for a medical supply or durable medical equipment shall be accompanied by a prescription, except if dispensed by a health care organization or a facility. The provider shall bill the appropriate code from the "Medicare National Level II HCPCS Codes" as adopted by reference in R 418.10107.

(2) A bill for durable medical equipment shall include the procedure code, the manufacturer's name, the model number if available and the serial number. Bills for durable medical equipment may be for rental or purchase dependent upon requirements of the injured worker.

(3) A bill for an expendable medical supply shall include the brand name and the quantity dispensed.

(4) A bill for a miscellaneous supply, for example; either a wig, shoes, or shoe modification, shall be submitted on an invoice if the supplier is not listed as a health care professional.

**R 418.10915 Billing for anesthesia services.**

Rule. 915. (1) Anesthesia services shall consist of 2 components. The 2 components are base units and time units. Each anesthesia procedure code is assigned a value for reporting the base units. The anesthesia codes and base units shall be published separate from these rules by the bureau.

(2) The anesthesia base units shall include all of the following:

- (a) The pre-anesthesia evaluation.
- (b) Preparation.
- (c) Post-anesthesia care.

(3) Anesthesia time shall begin when the provider physically starts to prepare the patient for induction of anesthesia in the operating room and shall end when the provider is no longer in constant attendance. The total time in minutes shall be listed in the days or units column of the HCFA 1500 claim form.

(4) An anesthesia service may be provided by an anesthesiologist, anesthesia resident, a certified registered nurse anesthetist, or both. When billing for both the anesthesiologist and a certified registered nurse anesthetist, the anesthesia procedure code shall be listed on 2 lines of the HCFA 1500 with the appropriate modifier on each line.

(5) Time units are identified by a modifier applied to the anesthesia procedure code as follows:



- (a) Modifier -AA indicates the anesthesia service is administered by the anesthesiologist.
- (b) Modifier -SA indicates the anesthesiologist has supervised a certified registered nurse anesthetist, who is employed by either a hospital, the anesthesiologist, or is self-employed.
- (c) Modifier -QX indicates the certified registered nurse anesthetist has administered the procedure under the direction of the anesthesiologist.
- (d) Modifier -QZ indicates the certified registered nurse anesthetist has administered the complete anesthesia service without medical direction of an anesthesiologist.
- (6) Total anesthesia units shall be calculated by adding the anesthesia base units to the anesthesia time units.
- (7) Anesthesia services may be administered by any of the following:
  - (a) A licensed doctor of dental surgery.
  - (b) A licensed doctor of medicine.
  - (c) A licensed doctor of osteopathy.
  - (d) A licensed doctor of podiatry.
  - (e) A certified registered nurse anesthetist.
  - (f) A licensed anesthesiology resident.
- (8) If anesthesia is provided by the surgeon, then only the base units shall be paid.
- (9) If a provider bills physical status modifiers, then documentation shall be included with the bill to support the additional risk factors. When billed, the physical status modifiers are assigned unit values as defined in the following table:

Anesthesiology Physical Status Modifiers		Unit Value
P1	A normal healthy patient	0
P2	A patient with mild systemic disease	0
P3	A patient with severe systemic disease	1
P4	A patient with severe systemic disease that is a constant threat to life	2

- (10) Procedure code 99140 shall be billed as an add-on procedure if an emergency condition, as defined in R 418.10108, complicates anesthesia. Procedure code 99140 shall be assigned 2 anesthesia units. Documentation supporting the emergency shall be attached to the bill.
- (11) If a pre-anesthesia evaluation is performed and surgery is not subsequently performed, then the service shall be reported as an evaluation and management service.
- (12) If the physician owns the patient-controlled analgesia equipment and provides patient-controlled anesthesia service, then the physician shall bill the service using procedure code 01999 and modifier -PC. Modifier code -PC means patient-controlled analgesia. Procedure code 01999-PC shall include the initial evaluation and up to 3 days of follow-up care. The maximum payment shall be \$137.00.

**R 418.10916 Billing for minor practitioner services performed in an outpatient hospital setting.**

Rule 916. (1) This rule applies to the practitioner component of minor procedures that can safely be performed in a setting other than an outpatient hospital. If a practitioner or health care organization submits a bill for a procedure code listed in table 10916 in the outpatient hospital setting, then modifier code -26 shall be added to the procedure code and the carrier shall pay 40% of the maximum allowable fee for the procedure. A radiologist shall be reimbursed by the maximum allowable payment for the professional component of the procedure, identified by modifier -26.

(2) This rule shall not apply to the following instances:

- (a) During an inpatient, observation stay, or services appropriately performed in the emergency room department.



- (b) For procedures performed during an outpatient surgery.
- (c) If procedures from Table 10916 are performed during the course of an outpatient setting in conjunction with a procedure that is appropriately performed in the outpatient setting; for example, a radiology procedure with a myelogram or outpatient surgery.
- (3) This rule shall not apply if the procedure is performed by an emergency room physician granted privileges by the hospital to practice in the emergency room.
- (4) Table 10916 reads as follows:

**TABLE 10916**

10060	20665-20670	40800	67715-67805	93740
10120	23065	40804	67810-67825	94010-95065
10140	23330	40820	67938	95115-95199
10160	24065	41000-41005	69000	95180
11000	24200	41800-41805	69020	98925-98943
11040	25065	42310	70030-70360	99195
11100-11101	26010	45300	70450-71030	99201-99215
11720-11750	27040	45330	71100-72220	99241-99245
11900-11901	27086	46050	73000-74020	99281-99285
12001-12004	27323	50398	74400-74420	99801-99815
15860	27613	51000	78300-78699	
16000	28001	51700-51710	90901-90911	
16020-16030	28190	53600-53661	92002-92014	
20500	30000-30100	53670-53675	92230-92504	
20520	30300	65205-65222	92531-92599	
20550-20610	30901	67700	92230-92499	

**R 418.10918 Billing procedure codes that only have a professional component.**

Rule 918. Procedure codes in the following table have only a professional component and shall only be billed by a practitioner or a health care organization.

**TABLE 10918**

20501	27370	50394	88300-88399
21116	27648	50684	93010
23350	31708-31715	50690	93018
24220	36000-36218	51600-51610	93045
25246	36600	62284	93204
27093	38790	62290-62291	

**R 418.10920 Billing for supplementary radiology supplies.**

Rule 920. (1) If a description of a diagnostic radiology procedure includes the use of contrast materials, then those materials shall not be billed separately as they are included in the procedure.

(2) A radiopharmaceutical diagnostic low osmolar contrast materials and paramagnetic contrast materials shall only be billed when "Current Procedural Terminology" billing instructions indicate supplies shall be listed separately.

(3) A supply for a radiology procedure shall be coded as provided in this rule. A provider shall include an invoice documenting the wholesale price of the contrast material used and the provider shall be reimbursed the wholesale price of the contrast material.

Code	Descriptor
A4641	Supply of radiopharmaceutical diagnostic imaging agent
A4644	Supply of low osmolar contrast material (100-199 mgs. of iodine)
A4645	Supply of low osmolar contrast material (200-299 mgs. of iodine)
A4646	Supply of low osmolar contrast material (300-399 mgs. of iodine)



**PART 9. BILLING**  
**SUBPART B. FACILITY BILLING**

**R 418.10921 Facility billing.**

Rule 921. (1) A facility as defined in these rules shall submit facility charges on a UB-92 claim form to the carrier. A copy of the UB-92 form shall be published separate from these rules in a manual distributed by the health care services division of the bureau. The Michigan uniform billing manual referenced in these rules contains instructions for facility billing.

(2) A facility billing for a practitioner service shall bill charges on the HCFA 1500 claim form.

**R 418.10922 Hospital billing instructions.**

Rule 922. (1) When billing for emergency department, outpatient, and inpatient services, a hospital shall bill facility charges on the UB-92 national uniform billing claim form and shall include revenue codes, ICD.9.CM coding, and CPT codes for surgical, radiological, laboratory, medicine, and evaluation and management services.

(2) If billing radiological services or laboratory services, then the technical component shall be billed on the UB-92 national uniform billing claim form.

(3) If billing the professional component of a radiological, laboratory, or medicine and evaluation and management service, a facility shall use the CPT procedure code as adopted in R 418.10107. If billing the professional component of a radiological, laboratory, or diagnostic service, the facility shall use modifier code -26 to identify the professional component. The professional services shall be billed on a HCFA 1500 claim form and coded according to procedure codes listed in "Current Procedural Terminology" and "Medicare's Level II Codes" as referenced in R 418.10107.

(4) If a hospital clinic bills under a hospital's federal employer identification number, then a hospital clinic facility service shall be identified by using revenue code 510 "clinic."

(5) A hospital shall bill the physical, occupational, and speech therapy services on the UB-92 national uniform billing claim form and the hospital shall be paid according to the hospital's payment ratio. The hospital shall provide the carrier with the initial evaluation and progress notes every 30 days.

(6) A hospital-system owned office practice shall bill all office services as practitioner services on a HCFA 1500, using site of service 3 or 11.

(7) A hospital or hospital-system owned industrial or occupational clinic shall bill all clinic services as practitioner services on a HCFA 1500 form, using site of service 3 or 11.

(8) A hospital or hospital-system owned industrial or occupational clinic shall not use emergency department evaluation and management procedure codes to describe medical services, or site of service 2, 22, or 23.

**418.10923 Hospital billing for practitioner services.**

Rule 923. (1) A hospital billing for practitioner services, including a certified registered nurse anesthetist, a physician, a nurse who has a specialty certification, and a physician's assistant shall submit bills on a HCFA 1500 form and the hospital shall use the appropriate procedure codes adopted by these rules.

(a) A hospital or hospital-system owned office practice shall bill all office services as practitioner services on a HCFA 1500 form using site of service 3 or 11.

(b) A hospital or hospital-system owned industrial or occupational clinic shall bill all clinic services as practitioner services on a HCFA 1500 using site of service 3 or 11. Radiology and laboratory services may be billed as facility services on the UB-92.

(2) A procedure code listed in R 418.10918 describes professional services billed only by a practitioner. If billing procedures listed in R 418.10918, then the hospital shall only bill on a HCFA 1500 form.

(a) A procedure contained on table 10924 can safely be performed in settings other than an inpatient hospital. If billed by the hospital or practitioner, then the service shall be billed on a HCFA 1500 form with modifier -26 and the carrier shall reimburse the service at 40% of the maximum allowable payment, or 40% of the practitioner's usual and customary charge, whichever is less.

(3) A radiologist shall bill only the professional component of a radiologic procedure. The professional component shall be identified by placing modifier code -26 after the appropriate radiologic procedure code.



(4) A pathologist shall bill only the professional component of a pathology procedure. The professional component shall be identified by placing modifier code -26 after the appropriate procedure code.

(5) A certified registered nurse anesthetist shall bill only time units of an anesthesiology procedure, except in the absence of medical direction from a supervising anesthesiologist.

**R 418.10924 Facility billing for minor services performed in the outpatient hospital setting.**

Rule 924. (1) This rule applies to minor procedures that can safely be performed in a setting other than an outpatient hospital. If procedures listed on the table in this rule are performed in the outpatient hospital setting, then modifier -TC shall be applied by the carrier and the hospital shall only be reimbursed for the technical component of the procedure code. Radiology procedures list the reimbursement for the technical component. For medical and surgical procedures, the technical component is 60% of the maximum allowable payment.

(2) This rule shall not apply to the following:

(a) During the first 10 days of commencing care for an injury.

(b) During an inpatient or observation stay, or services appropriately performed in the emergency room department.

(c) Procedures performed during the time of an outpatient surgery.

(d) If a procedure included in Table 10924 is combined with another procedure not on Table 10924; for example, a radiology procedure with a myelogram or outpatient surgery.

(3) Table 10924 reads as follows:

**TABLE 10924**

10060	20665-20670	40800	67715-67805	93740
10120	23065	40804	67810-67825	94010-95065
10140	23330	40820	67938	95115-95199
10160	24065	41000-41005	69000	95180
11000	24200	41800-41805	69020	95860-95904
11040	25065	42310	70030-70360	95930-95937
11100-11101	26010	45300	70450-71030	98925-98943
11720-11750	27040	45330	71100-72220	99195
11900-11901	27086	46050	73000-74020	99201-99215
12001-12004	27323	50398	74400-74420	99241-99245
15860	27613	51000	78300-78699	99281-99285
16000	28001	51700-51710	90901-90911	99801-99815
16020-16030	28190	53600-53661	92002-92014	
20500	30000-30100	53670-53675	92230-92504	
20520	30300	65205-65222	92531-92599	
20550-20610	30901	67700	92230-92499	

**R 418.10925 Billing requirements for facility other than a hospital.**

Rule 925. (1) A facility, other than a hospital, that is licensed by the state shall bill the facility services on the UB-92 national uniform billing claim form and shall include the revenue codes contained in the Michigan uniform billing manual, ICD-9-CM coding for diagnoses and procedures, and CPT codes for surgical, radiological, laboratory, and medicine and evaluation and management services.

(2) If billing radiological services or laboratory services, a facility, other than a hospital, that is licensed by the state shall bill only the technical component on the UB-92 national uniform billing claim form.

(3) If a facility, other than a hospital, that is licensed by the state bills for certified registered nurse anesthetist services, the professional component of a radiological service, the professional component of a laboratory service, physician's assistant service, or nurse practitioner service, then the service shall be billed on a HCFA 1500 claim form, using the appropriate CPT procedure code and modifier -26.

(4) If billing for services, a facility, other than a hospital, that is licensed by the state shall include a report that describes the services provided and the condition of the patient.



**PART 10. REIMBURSEMENT**  
**SUBPART A. PRACTITIONER REIMBURSEMENT**

**R 418.101001 General rules for practitioner reimbursement.**

Rule 1001. (1) A provider that is authorized to practice in the state of Michigan shall receive the maximum allowable payment in accordance with these rules. A provider shall follow the process specified in these rules for resolving differences with a carrier regarding payment for appropriate health care services rendered to an injured worker.

(2) A carrier shall not make a payment for a service unless all required review activities pertaining to that service are completed.

(3) A carrier's payment shall reflect any adjustments in the bill made through the carrier's utilization review program.

(4) A carrier shall pay, adjust, or reject a properly submitted bill within 30 days of receipt. The carrier shall notify the provider on a form entitled "Carrier's Explanation of Benefits" in a format specified by the bureau. A copy shall be sent to the injured worker.

(5) A carrier shall not make a payment for any service which is determined inappropriate by the carrier's professional health care review program.

(6) The carrier shall reimburse the provider a 3% late fee if more than 30 calendar days elapse between a carrier's receipt of a properly submitted bill and a carrier's mailing of the payment.

(7) If a procedure code has a maximum fee of "by report," the provider shall be paid usual and customary charge or the reasonable amount, whichever is less. The carrier shall provide an explanation of its determination that the fee is unreasonable or excessive in accordance with these rules.

**R 418.101002 Conversion factors for medical, surgical, and radiology procedure codes.**

Rule 1002. (1) The bureau shall determine a conversion factor for medical, surgical, and radiology procedures. The conversion factor shall be used by the bureau for determining the maximum allowable payment for medical, surgical, and radiology procedures. The maximum allowable payment shall be determined by multiplying the appropriate conversion factor times the relative value unit assigned to a procedure. The relative value units are listed for each medicine, surgical, and radiology procedure codes in a manual separate from these rules. The manual shall be published annually by the bureau using codes adopted from "Current Procedural Terminology" as referenced in R 418.10107(a). The Bureau shall determine the relative values by using information found in the "RBRVS: Fee Schedule" as adopted by reference in R 418.10107(c).

(2) The conversion factors are as follows:

(a) For medicine procedures (90281-99199), the conversion factor is \$42.92.

(b) For surgical procedures (10040-69979), the conversion factor is \$54.05.

(c) For radiology procedures(70010-79999), the conversion factor is \$50.51.

**R 418.101003 Reimbursement for "by report" and ancillary procedures.**

Rule 1003. (1) If a procedure code does not have a listed relative value or is noted BR, then the carrier shall reimburse the provider's usual and customary charge or reasonable payment, whichever is less, unless otherwise specified in these rules.

(2) The following ancillary services are by report and the provider shall be reimbursed either at the practitioner's usual and customary charge or reasonable payment, whichever is less:

(a) Ambulance services.

(b) Dental services.

(c) Vision and prosthetic optical services.

(d) Hearing aid services.

(3) Prescription medication shall be reimbursed at the average wholesale price (AWP) + a \$4.00 dispense fee for each drug, as determined by the Red Book, referenced in R 418.10107(e).



- (4) Over-the-counter drugs (OTC's), dispensed by a provider other than a pharmacy, shall be dispensed in 10-day quantities and shall be reimbursed at the average wholesale price, as determined by the Red Book, or \$2.50, whichever is greater.
- (5) Durable medical equipment, supplies, including pre-fabricated splints, shall be reimbursed by the carrier at the average wholesale price, plus not more than 50%, or the provider's usual and customary charge, whichever is less.
- (6) Orthotic and prosthetic procedures, L0100-L8499, and assigned maximum allowable payments shall be listed in Table 1501-C.

**R 418.101004 Modifier code reimbursement.**

- Rule 1004. (1) If accompanied by a modifier code, then a procedure code shall be considered to have a maximum allowable payment of BR, except as provided for by subrules (2) to (13) of this rule.
- (2) If modifier code -25 is added to an evaluation and management procedure code, then reimbursement shall only be made if the documentation provided supports significant change of signs and symptoms or the evaluation of another work related problem is not included in the procedure or service that required the encounter.
  - (3) If modifier code -26, professional component, is used with a radiology procedure, then the payment shall be determined by multiplying the relative value for the professional component times the radiology conversion factor.
  - (4) If a surgeon used modifier code -47 when performing a surgical procedure, then the maximum allowable payment for the anesthesia shall be calculated by multiplying the base unit of the appropriate anesthesia code by \$42.00.
  - (5) If modifier code -50 or -51 is used with procedure codes 10000-69999, then a doctor of dental surgery, doctor of medicine, doctor of osteopathy, or doctor of podiatry shall be paid the following:
    - (a) The primary procedure at not more than 100% of the maximum allowable payment or the billed charge, whichever is less.
    - (b) The secondary procedure and the remaining procedure or procedures at not more than 50% of the maximum allowable payment or the billed charge, whichever is less.
    - (c) If multiple injuries occur in different areas of the body, then the first surgical procedure in each part of the body shall be reimbursed 100% of the maximum allowable payment or billed charge, whichever is less, and the second and remaining surgical procedure or procedures shall be identified by modifier code -51 and shall be reimbursed at 50% of the maximum allowable payment or billed charges, whichever is less.
    - (d) If modifier -50 or -51 is used with a surgical procedure with a maximum allowable payment of BR, then the maximum allowable payment shall be 50% of the provider's usual and customary charge or 50% of the reasonable amount, whichever is less.
  - (6) If modifier code -TC, technical services, is used to identify the technical component of a radiology procedure, then payment shall be made for the technical component only. The maximum allowable payment for the technical portion of the radiology procedure is designated in the manual by -TC.
  - (7) If modifier -57, initial decision to perform surgery, is added to an evaluation and management procedure code, then modifier -57 shall indicate that a consultant has taken over the case and the consultation code is not part of the global surgical service. Modifier -57 added to an established visit evaluation and management code and billed in conjunction with a starred (\*) surgical procedure shall not be reimbursed.
  - (8) If both surgeons use modifier -62 and the procedure has a maximum allowable payment, then the maximum allowable payment for the procedure shall be multiplied by 25%. Each surgeon shall be paid 50% of the maximum allowable payment times 25%, or 62.5 % of the MAP. If the maximum allowable payment for the procedure is BR, then the reasonable amount shall be multiplied by 25% and be divided equally between the surgeons.
  - (9) If modifier code -80 is used with a procedure, then the maximum allowable payment for the procedure shall be 20% of the maximum allowable payment listed in these rules, or the billed charge, whichever is less. If a maximum payment has not been established and the procedure is BR, then payment shall be 20% of the reasonable payment amount paid for the primary procedure.
  - (10) If modifier code -81 is used with a procedure code that has a maximum allowable payment, then the maximum allowable payment for the procedure shall be 13% of the maximum allowable payment listed in these rules or the billed charge, whichever is less. If modifier code -81 is used with a BR procedure, then the



maximum allowable payment for the procedure shall be 13% of the reasonable amount paid for the primary procedure.

(11) If modifier -82 is used and the assistant surgeon is a licensed doctor of medicine, doctor of osteopathic medicine and surgery, doctor of podiatric medicine, or a doctor of dental surgery, then the maximum level of reimbursement shall be the same as for modifier -80. If the assistant surgeon is a physician's assistant, the maximum level of reimbursement shall be the same as modifier -81. If a person other than a physician or a certified physician's assistant bills using modifier -82, then the charge and payment for the service is reflected in the facility fee.

(12) If modifier -AU or -AK is billed with evaluation and management or minor surgical services, then the carrier shall reimburse the procedure at 85% of the maximum allowable payment, or the usual and customary charge, whichever is less.

#### **R 418.101006 Reimbursement for mental health services.**

Rule 1006. (1) A carrier shall only reimburse procedure codes 90805, 90807, 90809, 90811, 90813, 90815, 90817, 90819, 90822, 90824, 90827, 90829, 90862, 90865, 90870, and 90871 when billed by a psychiatrist (an M.D. or D.O.).

(2) A licensed psychologist or a limited license psychologist billing for a diagnostic procedure shall be paid the maximum allowable payment or the practitioner's usual and customary fee, whichever is less.

(3) A licensed psychologist billing for a therapeutic service shall use modifier -AH and shall be paid the maximum allowable payment or the practitioner's usual and customary charge, whichever is less.

(4) For the following providers, therapeutic mental health services shall be reimbursed at 85% of the maximum allowable payment, or the practitioner's usual and customary charge, whichever is less. If a procedure code has a maximum allowable payment of "by report," the maximum allowable payment shall be 85% of the reasonable payment, or the practitioner's usual and customary charge, whichever is less:

(a) -AL limited license psychologist.

(b) -AJ certified social worker.

(c) -LC licensed professional counselor.

(d) -MF licensed marriage and family therapist.

(5) For the following providers, mental health services shall be reimbursed at 64% of the maximum allowable payment, or the practitioner's usual and customary charge, whichever is less. If a procedure code has a maximum allowable payment of "by report," then the maximum allowable payment shall be 64% of the reasonable payment, or the practitioner's usual and customary charge, whichever is less:

(a) -CS limited licensed counselor.

(b) -ML limited licensed marriage and family therapist.

(6) Reimbursement for mental health services is listed in Table 1501-D.

#### **R 418.101007 Reimbursement for anesthesia services.**

Rule 1007. (1) The carrier shall determine the maximum allowable payment for anesthesia services by adding the base units to the time units. The carrier shall reimburse anesthesia services at either the maximum allowable payment, or the practitioner's usual and customary charge, whichever is less. Each anesthesia base unit shall be multiplied by \$42.00 to determine payment for the base procedure.

(a) Anesthesia base units shall only be paid to an anesthesiologist, a surgeon who provides the anesthesia and performs the surgery, or a certified registered nurse anesthetist providing anesthesia without medical direction of the anesthesiologist. Only 1 practitioner shall be reimbursed for base units, documented by the anesthesia record.

(2) The carrier shall reimburse the time units by the total minutes listed in the "days" or "units" column and the alpha modifier added to the procedure code. Time units are reimbursed in:

(a) Increments of 15 minutes or portions thereof, for administration of the anesthesia.

(b) Increments of 30 minutes or portions thereof, for supervision of a CRNA.

(c) In no instance shall less than 1 time unit be reimbursed.

(3) The maximum allowable payment for anesthesia time shall be calculated in the following manner:

(a) If the anesthesiologist administers the anesthesia, then the modifier shall be -AA and the maximum payment shall be \$2.80 per minute.



- (b) If the anesthesiologist supervises a CRNA, then the modifier shall be -SA and the maximum payment shall be \$1.40 per minute.
- (c) If a CRNA supervised by an anesthesiologist administers the anesthesia, then the modifier shall be -QX and the maximum payment shall be \$2.80 per minute.
- (d) If a CRNA administers without supervision of the anesthesiologist, then the modifier shall be -QZ and the maximum payment shall be \$2.80 per minute.

**PART 10. REIMBURSEMENT**  
**SUBPART B. FACILITY REIMBURSEMENT**

**R 418.101015 Responsibility of carrier or designated agent regarding facility billing form.**

Rule 1015. The carrier or its designated agent shall assure that the UB-92 national uniform billing claim form, (D1450), is completed correctly before payment.

**R 418.101016 Reimbursement for hospital facility services.**

- Rule 1016. (1) If a carrier pays a properly submitted bill or an unadjusted portion of the bill within 30 days of receipt of a properly submitted bill, the maximum allowable payment for each inpatient hospital admission, emergency department services which can only be performed in a hospital setting, outpatient services which can only be performed in a hospital setting, or observation care, except as provided for in subrule (2) of this rule, shall be calculated by multiplying the hospital's payment ratio, published by the bureau, times the total charges for the appropriate admission or service, and multiplying the product times 107%.
- (2) If a hospital outside the state of Michigan submits a bill for an inpatient hospital admission, emergency department services which can only be performed in a hospital setting, outpatient services which can only be performed in a hospital setting, or observation care, and a carrier pays a properly submitted bill or unadjusted portion of the bill within 30 days of receipt of a properly submitted bill, then the maximum fee shall be calculated by multiplying the out-of-state maximum payment ratio, as published by the bureau, times the total charges for the appropriate admission or service, and multiplying the product times 107%.
- (3) A facility shall not be paid more than the amount of the charges.
- (4) If a carrier does not pay a properly submitted facility bill, or unadjusted portion of the bill within 30 days of receipt of a properly submitted facility bill, then a carrier shall calculate a hospital's payment by multiplying the hospital's payment ratio, times the total charges for the appropriate admission or service, and multiplying the product times 110%.
- (5) If a hospital outside the state of Michigan submits a bill for an inpatient hospital admission, emergency department services that can only be performed in a hospital setting, outpatient services that can only be performed in a hospital setting, or observation care, and a carrier pays a properly submitted bill or unadjusted portion thereof after 30 days of receipt of a properly submitted bill, then the maximum fee shall be calculated by multiplying the maximum payment ratio of hospitals located outside the state of Michigan, as published by the bureau, times the total charges for the appropriate admission or service, and multiplying the product times 110%.
- (6) If a carrier pays a properly submitted bill after 30 days, then a carrier shall not pay more than 3% above the charges.



(7) Observation care shall not be for more than 24 hours. If the patient does not meet admission criteria according to the length of stay guidelines, then the patient shall be discharged from observation care.

(8) The following hospital services are paid by the ratio payment methodology:

- (a) Inpatient or observation care.
- (b) Emergency department services.
- (c) Occupational, physical, and speech therapy services.
- (d) Outpatient surgeries.
- (e) Laboratory services and outpatient services not listed on Table 10924.

**R 418.101017 Reimbursement for outpatient minor medical-surgical procedures performed in the outpatient hospital setting when billed on the UB-92.**

Rule 1017. (1) Reimbursement for services listed on Table 10924 shall be made as follows:

- (a) If the service occurs in the first 10 days of care beginning for a work injury, then the hospital shall be reimbursed by the ratio methodology.
- (b) If the service occurs after the first 10 days, then the carrier shall reimburse the facility 60% of the maximum allowable payment for medical and surgical procedures and the technical component for radiology procedures.

(2) This rule shall not apply to services performed in a hospital-owned or hospital-system owned occupational or industrial clinic, as those services shall be considered practitioner services and shall be billed and paid as a practitioner service.

**R 418.101018 Technical services performed in the hospital.**

Rule 1018. (1) If the following services are performed in the outpatient hospital setting, then the hospital shall be reimbursed by the payment ratio methodology and shall not have a professional component billed:

- (a) Casting and strapping procedures performed by hospital technicians.
- (b) Laboratory services.
- (c) Physical, occupational, and speech therapy services.
- (d) Procedures describing EKG tracings only.

R 418.101019 Procedure codes not payable to hospitals.

Rule 1019. The following procedures are practitioner services and shall not be paid to a facility when billed on the UB-92:

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53670	93000	93720
93015	93040	

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**R 418.101022 Reimbursement for a facility other than a hospital.**

Rule 1022. (1) A facility other than a hospital shall be licensed by the state, and may include the following:

- (a) A free-standing surgical outpatient facility.
- (b) Nursing home.
- (c) County medical care facility.
- (d) Hospice.
- (e) Hospital long-term care unit.
- (f) Intermediate care facility or skilled nursing facility.

(2) A licensed facility does not include the office of an individual practitioner, group of providers, or health care organization. A licensed facility other than a hospital shall be reimbursed by its usual and customary charge or reasonable amount for the service provided, whichever is less. If a facility other than a hospital is not paid within 30 days of receipt of a properly submitted bill, the facility shall receive an additional 3%.



## **PART 11. HOSPITAL PAYMENT RATIO**

### **R 418.101101 Calculation and revision of payment ratio for Michigan hospitals.**

Rule 1101. The bureau shall annually calculate and revise, under the provisions of Act No. 306 of the Public Acts of 1969, as amended, being §24.201 et seq. of the Michigan Compiled Laws, the payment ratios for all Michigan hospitals. The calculation shall be made using a hospital's most recent fiscal year information that is submitted to the Michigan department of community health, medical services administration, preceding each annual calculation. The information used shall be that reported to the Michigan department of community health, medical services administration, on the hospital's statement of patient revenues and operating expenses, G2 worksheet. The bureau shall complete the payment ratio calculation between September 1 and October 1.

(2) The bureau shall calculate a hospital's cost-to-charge ratio by dividing each hospital's total operating expenses by total patient revenues as reported on the hospital's statement of patient revenues and operating expenses, G2 worksheet.

### **R 418.101102 Calculation and revision of payment ratio for hospitals outside Michigan.**

Rule 1102. The bureau shall annually calculate and revise, under the provisions of Act No. 306 of the Public Acts of 1969, as amended, being §24.201 et seq. of the Michigan Compiled Laws, at the same time as calculating Michigan hospitals' payment ratios, a weighted state average payment ratio to be used for hospitals that are located outside the state of Michigan. The payment ratio shall be calculated by dividing the total hospital operating expenses for Michigan by the total hospital patient revenues for Michigan as reported under R 418.1101(1).

### **R 418.101103 Adjustments to hospital's payment ratio.**

Rule 1103. (1) A hospital may apply to the bureau for an adjustment of the hospital's maximum payment ratio.

(2) The hospital shall apply for an adjustment on a form and in a manner prescribed by the bureau.

(3) If the bureau determines that a hospital's ratio of total operating expenses to total patient revenues, as reported on the hospital's statement of patient revenues and operating expenses, G2 worksheet, for a hospital's most recent fiscal year is higher than the payment ratio calculated according to R 418.1101, so that the amount of underpayment is more than \$100,000.00 or is equal to or greater than 2/10 of 1% of the hospital's operating expenses for the year, then the bureau shall revise the payment ratio and shall notify the hospital and all carriers of the revised payment ratio within 45 days after the receipt of a properly submitted request for an adjustment.

(4) If a hospital's request for an adjustment to the hospital's payment ratio is denied by the bureau, then a hospital may request reconsideration and appeal of the bureau's action regarding the hospital's request for adjustment of its payment ratio.

### **R 418.101104 Request for adjustment to hospital's maximum payment ratio; Bureau's response.**

Rule 1104. (1) Within 60 days of the bureau's receipt of a hospital's request for adjustment to the hospital's maximum payment ratio, the bureau shall notify the hospital of the action on the adjustment request and shall notify the hospital of the hospital's right to provide additional information to request reconsideration of the bureau's action.

(2) The bureau shall also furnish the hospital with an appeal form. The appeal form shall include an explanation of the appeal process.

### **R 418.101105 Bureau's action on request for adjustment of maximum payment ratio; hospital's appeal.**

Rule 1105. (1) If a hospital is in disagreement with the action taken by the bureau on its request for adjustment of the hospital's maximum payment ratio, then a hospital may, within 30 days of receipt of the bureau's action on the hospital's request for adjustment to its maximum payment ratio, deliver or mail an



appeal of the bureau's action to the bureau. The appeal shall include a detailed statement of the reasons for disagreement and shall request reconsideration of the bureau's action on the hospital's request for adjustment.

(2) The bureau shall hold a hearing within 30 days of the receipt of a hospital's appeal under section 847 of the act.

## **PART 12. CARRIER'S REVIEW OF HEALTH CARE REVIEW**

### **R 418.101201 Carrier's health care review program.**

Rule 1201. (1) The carrier shall have both a technical health care review program and a professional health care review program.

(2) Health care review shall be conducted in a reasonable manner on bills submitted by a provider for health care services furnished because of a covered injury or illness arising out of and in the course of employment.

### **R 418.101203 Carrier's technical health care review program.**

Rule 1203. Under the technical health care review program, the carrier shall do all of the following:

- (a) Determine the accuracy of the procedure coding. If the carrier determines, based upon review of the bill and any related material which describes the procedure performed, that the procedure is incorrectly or incompletely coded, then the carrier may re-code the procedure, but shall notify the provider of the reasons for the recoding within 30 days of receipt of the bill under part 13 of these rules.
- (b) Determine that the amount billed for a procedure does not exceed the maximum allowable payment established by these rules. If the amount billed for a procedure exceeds the maximum allowable payment, then the carrier shall reimburse the maximum allowable payment for that procedure.
- (c) Identify those bills and case records which, under R 418.101205, shall be subject to professional health care review.

### **R 418.101204 Carrier's professional health care review program.**

Rule 1204. (1) A carrier may have another entity perform professional health care review activities on its behalf.

- (2) The professional health care review program, whether operated by the carrier or an entity on behalf of the carrier, shall be certified by the bureau pursuant to R 418.101206.
- (3) If the carrier's professional health care review program is operated by an entity other than the carrier, then the carrier shall provide the bureau with the name and address of the entity responsible for conducting the carrier's professional health care review program.
- (4) For purposes of these rules, a carrier that has another entity perform professional health care review activities on its behalf maintains full responsibility for compliance with these rules.
- (5) Under the carrier's professional health care review program, the carrier shall determine the medical appropriateness of services provided in connection with the treatment of a covered injury or illness through 1 of the following approaches:
  - (a) Review by licensed, registered, or certified health care professionals.
  - (b) The application by others of criteria developed by licensed, registered, or certified health care professionals.
  - (c) A combination of approaches in subdivisions (a) and (b) of this subrule according to the type of covered injury or illness.
- (6) The licensed, registered, or certified health care professionals shall be involved in determining the carrier's response to a request by a provider for reconsideration of its bill.
- (7) The licensed, registered, or certified health care professionals shall have suitable occupational injury or disease expertise, or both, to render an informed clinical judgment on the medical appropriateness of the services provided.

#### **R 418.101205 Scope of professional health care review.**

Rule 1205. (1) The carrier, or its review company, shall review case records and health-service bills, or both, under the professional health care review program as follows:

- (a) A case where health care service payments, excluding inpatient hospital care, exceed \$5,000.00.
- (b) A case involving inpatient hospital care.



(2) The carrier or other entity may at any time review any case record or bill which the carrier or the other entity believes may involve inappropriate, insufficient, or excessive care.

**R 418.101206 Certification of professional health care review program.**

Rule 1206. (1) The bureau shall certify a carrier, or other entity performing professional health care review on behalf of the carrier, that proposes to carry out a professional health care review program.

(2) A carrier, or other entity performing professional health care review on behalf of the carrier, shall apply to the bureau for certification in the manner prescribed by the bureau.

(3) A carrier, or other entity performing professional health care review on behalf of the carrier, shall receive certification if the carrier or other entity provides to the bureau a description of its professional health care review program. The description of the professional health care review program shall include both of the following:

(a) If the carrier intends to determine medical appropriateness under R 418.101204(5)(a), (b), or (c).

(b) A description of the health care professionals to be used under R 418.101204.

**R 418.101207 Types of certification.**

Rule 1207. (1) Certification shall be either unconditional or conditional.

(2) The bureau shall issue unconditional certification for a period of 3 years.

(3) The bureau may issue conditional certification if the bureau determines that the carrier or other entity does not fully satisfy the criteria in R 418.101206(3). If the carrier or other entity agrees to undertake corrective action, then the bureau shall grant conditional certification for a maximum period of 1 year.

(4) The bureau may at any time modify an unconditional certification to a conditional certification if the bureau determines that the carrier or other entity fails to satisfy the criteria set forth in R 418.101206(3).

(5) The carrier shall have the right to appeal the certification decisions under the procedures in these rules.

**R 418.101208 Renewal of certification.**

Rule 1208. (1) A carrier or other entity shall apply to the bureau for renewal of certification in the manner prescribed by the bureau.

(2) The application for the renewal of certification shall be received by the bureau not later than 6 months before expiration of certification.

(3) A carrier or other entity shall receive renewal of certification upon receipt of an updated description of its program as specified in R 418.101206.

**R 418.101209 Carrier's request for reconsideration of professional review certification.**

Rule 1209. (1) Within 30 days of the bureau's denial of a carrier's request for professional review program certification, the bureau shall notify the carrier of the reasons for denial of the certification and shall notify the carrier of its right to provide additional information and to request reconsideration of the bureau's action.

(2) A carrier shall notify the bureau, within 30 days of receipt of the professional review program certification denial, of its disagreement with the action of the bureau. The carrier's notice to the bureau of disagreement with the bureau's denial shall include a detailed statement of the reasons for the disagreement and shall request reconsideration.

**R 418.101210 Carrier's request for reconsideration of professional review program certification; response.**

Rule 1210. (1) Within 30 days of receipt of a carrier's request for reconsideration of professional review program certification, the bureau shall notify the carrier of the actions taken and shall furnish a detailed statement of the reasons for the action taken.

(2) The bureau shall furnish the carrier with an appeal form. The appeal form shall include an explanation of the appeal process.

(3) If a carrier is in disagreement with the action taken by the bureau on its request for reconsideration, then a carrier shall deliver or mail its appeal to the bureau.

(4) The bureau shall hold a hearing within 30 days of the receipt of a carrier's appeal of the bureau's decision regarding certification of the carrier's professional review program under section 847 of the act.



### **PART 13. PROCESS FOR RESOLVING DIFFERENCES BETWEEN CARRIER AND PROVIDER REGARDING BILL**

#### **R 418.101301 Carrier's adjustment or rejection of properly submitted bill.**

Rule 1301. (1) If a carrier adjusts or rejects a bill or a portion of the bill, then the carrier shall notify the provider within 30 days of the receipt of the bill of the reasons for adjusting or rejecting the bill or a portion of the bill and shall notify the provider of its right to provide additional information and to request reconsideration of the carrier's action. The carrier shall set forth the specific reasons for adjusting or rejecting a bill or a portion of the bill and request specific information on a form, "Carrier's Explanation of Benefits," prepared by the bureau pursuant to the reimbursement section of these rules.

(2) If the provider sends a properly submitted bill to a carrier and the carrier does not respond within 30 days, and if a provider sends a second properly submitted bill and does not receive a response within 60 days from the date the provider supplied the first properly submitted bill, then the provider may file an application with the bureau for mediation or hearing. The provider shall send a completed form entitled "Application for Mediation and Hearing" to the bureau and shall send a copy of this form to the carrier.

(3) The carrier shall notify the employee and the provider that the rules prohibit a provider from billing an employee for any amount for health care services provided for the treatment of a covered work-related injury or illness if that amount is disputed by the carrier under its utilization review program or if the amount is more than the maximum allowable payment established by these rules. The carrier shall request the employee to notify the carrier if the provider bills the employee.

#### **R 418.101302 Provider's request for reconsideration of properly submitted bill.**

Rule 1302. A provider may request reconsideration of its adjusted or rejected properly submitted bill by a carrier within 60 days of receipt of a notice of an adjusted or rejected bill or a portion of the bill. The provider's request to the carrier for reconsideration of the adjusted or rejected bill shall include a detailed statement of the reasons for disagreement with the carrier's adjustment or rejection of a bill or a portion of the bill.

#### **R 418.101303 Provider's request for reconsideration of bill; carrier's response to provider's right to appeal.**

Rule 1303. (1) Within 30 days of receipt of a provider's request for reconsideration, the carrier shall notify the provider of the actions taken and provide a detailed statement of the reasons. The carrier's notification shall include an explanation of the appeal process provided under these rules, including the fact that any requested administrative appeal hearing shall be conducted by a magistrate of the department of consumer and industry services.

(2) If a provider disagrees with the action taken by the carrier on the provider's request for reconsideration, then a provider may file an application for mediation or hearing with the department of consumer and industry services. A provider shall send its application for mediation or hearing to the bureau within 30 days from the date of receipt of a carrier's denial of the provider's request for reconsideration. The provider shall send a copy of the application to the carrier.

(3) If, within 60 days of the provider's request for reconsideration, the provider does not receive payment for the adjusted or rejected bill or a portion of the bill, or a written detailed statement of the reasons for the actions taken by the carrier, then the provider may apply for mediation or hearing. The provider shall send the application for mediation or hearing to the bureau and shall send a copy to the carrier.

#### **R 418.101304 Disputes.**

Rule 1304. (1) If a carrier adjusts or rejects a bill or a portion of a bill under these rules, then a notice given under R 418.101301(1) creates an ongoing dispute for the purpose of section 801 of the act. The time for making payment of a bill under section 801 of the act shall not run unless the bill is properly submitted according to applicable rules and statutes.

(2) Any dispute that concerns any of the following shall be resolved as if an application for mediation or hearing was filed under section 847 of the act:

(a) The medical appropriateness of health care or a health care service.



- (b) Utilization of health care or a health care service.
  - (c) The need for health care or a health care service.
  - (d) Any dispute over the cost of health care or a health care service.
  - (3) If the dispute results in the denial of medical treatment for a worker, or if there is a petition by an employer to stop the employer's liability for medical benefits previously ordered, including proceedings under subrule (6) of this rule, then the dispute shall receive the same expedited treatment accorded to 60-day cases under section 205 of the act, except that the bureau may refer the matter to mediation under section 223 of the act.
  - (4) A dispute under this rule may be submitted to arbitration under section 864 of the act.
  - (5) A dispute under this rule may be handled as a small claim under section 841(2) to (10) of the act if it meets the requirements of that section.
  - (6) If a carrier is required by the terms of an award to provide medical benefits, then the carrier shall continue to provide those benefits until there is a different order by any of the following entities:
    - (a) A magistrate.
    - (b) The appellate commission.
    - (c) The court of appeals.
    - (d) The supreme court.
- This subrule shall not preclude the use of the maximum allowable payments provided by these rules for the payment of bills by carriers. If a carrier files an application to stop or limit its liability under this subrule, the carrier shall receive the expedited treatment provided for under subrule (3) of this rule.
- (7) If the bureau believes that a provider is not in compliance with these rules, then the bureau may file an application for mediation or hearing under this rule.

#### **R 418.101305 Resolution of disputes.**

- Rule 1305. (1) If a carrier adjusts a fee or rejects a bill under these rules, then a notice given pursuant to R 418.101301 creates a continuing dispute for the purpose of section 801 of the act. The time for making payment of a bill under section 801 of the act shall not run unless the bill is properly submitted according to applicable rules and statutes.
- (2) A magistrate, as provided under sections 315 and 847 of the act and R 408.34 and R 408.35, shall resolve any dispute that concerns any of the following:
  - (a) The medical appropriateness of health care or a health care service.
  - (b) Utilization of health care or a health care service.
  - (c) The need for health care or a health care service.
  - (d) Any dispute over the cost of health care or a health care service.
- (3) The bureau may participate in any hearings that concern disputes when there is an issue that affects the provisions of these rules regarding maximum fees, medical appropriateness, or utilization of health care or health care services.

### **PART 14. BUREAU'S DATA ACQUISITION**

#### **R 418.101401 Annual medical payment report.**

- Rule 1401. (1) Payments for medical services received by injured workers shall be reported to the bureau on a form prescribed by the bureau entitled "Annual Medical Payment Report." The bureau shall provide instruction to the carriers and service companies regarding completion of the form. The annual medical payment report shall cover the periods January 1 through December 31 and shall include all of the following information:
- (a) The carrier's total number of worker's compensation cases and the total medical payments for health care services for those cases in the reporting period.
  - (b) Medical only cases, defined as those cases where no indemnity was paid, and the total medical payments made by the carrier for those cases.
  - (c) Wage loss cases, defined as those cases in which wage loss or indemnity was paid, and the total medical payments made by the carrier for those cases. For the purposes of this annual medical payment report, once wage loss benefits are paid, then the case shall always be reported as wage loss.



(2) The annual medical payment report shall be due in the bureau by February 28 of each year. The report shall not include travel expenses, payments for independent medical examinations, vocational rehabilitation, or rehabilitation case management expenses.

**R 418.101402 Access to workers' compensation case records.**

Rule 1402. (1) The bureau shall have access to necessary workers' compensation health care records, medical bills, and other information concerning health care or health service from workers' compensation carriers or providers.

(2) The bureau may review the records and medical bills of any provider determined by a carrier to not be in compliance with the rules or to be requiring unjustified treatment, hospitalization, or office visits. If a carrier requests the bureau to perform an on-site review of specific records and medical bills of a provider, then the bureau shall arrange a mutually acceptable visit date with the provider, by telephone or in writing, at least 15 working days before the visit. The bureau shall confirm the date of the visit in writing not less than 10 working days in advance. The bureau shall, by that time, identify for the provider the records which the bureau wishes to review. The records shall remain at the provider's place of business.

(3) The bureau shall ensure confidentiality of the individual case records regarding health care services provided to any individual.

**R 418.101404 Access to carrier data for payment of medical claims.**

Rule 1404. (1) The bureau shall have access to payment data from the carrier in the form of the carrier's explanation of benefits and medical bills for the purposes of data analysis.

(2) A carrier shall be notified by the bureau when information is to be submitted not less than 60 days before the date required.

(3) The bureau shall ensure confidentiality of the billing records provided by the selected carriers.

**PART 15. PROCEDURE CODE AND REIMBURSEMENT TABLES**

**R 418.101501 Tables for health care services and procedures.**

Rule 1501. (1) Procedures that do not have relative values assigned are referenced in this rule. The following tables have assigned fees developed by the bureau through rule promulgation and shall be published as part of these rules.

(a) Miscellaneous medical and surgical procedures without assigned relative values or specific payment methodologies are listed in table 1501-A.

(b) Laboratory and pathology procedure codes and maximum allowable payments are listed in table 1501-B.

(c) The orthotic and prosthetic codes and maximum allowable payments listed shall be listed in table 1501-C.

(d) The maximum allowable fees for mental health services are listed in table 1501-D

(e) Table 1501-E lists additional codes for physical and occupational therapy evaluations and fees and notes those physical therapy codes that have been deleted.

(2) The bureau shall publish separate from these rules a manual containing the following:

(a) Procedure codes and relative value units for the medical, surgical, and radiology services.

(b) Ancillary services identified by codes from Medicare's level II codes.

(c) Maximum payment ratios for hospitals.

(d) A copy of the billing forms and instructions for completion.



<b>Table 1501-A</b> <b>Miscellaneous Procedures</b>		
<b>Code</b>		
01999 PA	Patient Controlled Analgesia (See Rule 915)	\$137.00
90471	Administration of a single or combination vaccine	\$5.00
90472	Administration of two or more vaccines or toxoids	\$7.50
99000	Handling or conveyance of specimen	\$5.00
99025	Initial new patient examination performed with a starred surgical procedure	\$40.00
99050	After hour office service Monday-Friday (Rule 202)	\$5.00
99052	Services between 10:00PM and 8:00AM	\$5.00
99054	Weekend, holiday after hour office service (Rule 202)	\$12.00
99199	Carrier arranged missed appointment. (See Rule 111)	BR
WC700	Prescription Drug dispense fee (Rule 912 subrule 4)	\$4.00

**Table 1501-B Laboratory and Pathology Service**  
Code, Modifier, RVU, and Maximum Payment Allowance

80049	0.00	BR	80168	0.00	BR
80050	0.00	BR	80170	0.00	BR
80051	0.00	BR	80172	0.00	BR
80054	0.00	BR	80174	0.00	BR
80055	0.00	BR	80176	0.00	BR
80058	0.00	BR	80178	0.00	BR
80059	0.00	BR	80182	0.00	BR
80061	0.00	BR	80184	0.00	BR
80072	0.00	BR	80185	0.00	BR
80090	0.00	BR	80186	0.00	BR
80091	0.00	BR	80188	0.00	BR
80092	0.00	BR	80190	0.00	BR
80100	0.00	BR	80192	0.00	BR
80101	0.00	BR	80194	0.00	BR
80102	0.00	BR	80196	0.00	BR
80103	0.00	BR	80197	0.00	BR
80150	0.00	BR	80198	0.00	BR
80152	0.00	BR	80200	0.00	BR
80154	0.00	BR	80201	0.00	BR
80156	0.00	BR	80202	0.00	BR
80158	0.00	BR	80299	0.00	BR
80160	0.00	BR	80400	0.00	BR
80162	0.00	BR	80402	0.00	BR
80164	0.00	BR	80406	0.00	BR
80166	0.00	BR	80408	0.00	BR

CPT codes copyright by American Medical Association 1996

Refer to CPT for description of the procedure

Fees developed by BWC-HCSD



80410	0.00	BR	82101	0.00	BR
80412	0.00	BR	82103	0.00	BR
80414	0.00	BR	82104	0.00	BR
80415	0.00	BR	82105	0.00	BR
80416	0.00	BR	82106	0.00	BR
80417	0.00	BR	82108	0.00	BR
80418	0.00	BR	82127	0.00	BR
80420	0.00	BR	82128	0.00	BR
80422	0.00	BR	82131	0.00	BR
80424	0.00	BR	82135	0.00	BR
80426	0.00	BR	82136	0.00	BR
80428	0.00	BR	82139	0.00	BR
80430	0.00	BR	82140	0.00	\$9.90
80432	0.00	BR	82143	0.00	BR
80434	0.00	BR	82145	0.00	\$9.90
80435	0.00	BR	82150	0.00	\$8.80
80436	0.00	BR	82154	0.00	BR
80438	0.00	BR	82157	0.00	BR
80439	0.00	BR	82160	0.00	BR
80440	0.00	BR	82163	0.00	BR
80500	0.60	\$25.54	82164	0.00	BR
80502	1.77	\$75.75	82172	0.00	BR
81000	0.00	BR	82175	0.00	\$13.20
81001	0.00	BR	82180	0.00	\$16.50
81002	0.00	BR	82190	0.00	BR
81003	0.00	BR	82205	0.00	\$26.00
81005	0.00	BR	82232	0.00	BR
81007	0.00	BR	82239	0.00	BR
81015	0.00	BR	82240	0.00	BR
81020	0.00	BR	82247	0.00	BR
81025	0.00	BR	82248	0.00	BR
81050	0.00	BR	82251	0.00	BR
81099	0.00	BR	82252	0.00	BR
82000	0.00	BR	82261	0.00	BR
82003	0.00	BR	82270	0.00	BR
82009	0.00	\$3.30	82273	0.00	BR
82010	0.00	\$24.20	82286	0.00	BR
82013	0.00	BR	82300	0.00	BR
82016	0.00	BR	82306	0.00	BR
82017	0.00	BR	82307	0.00	BR
82024	0.00	BR	82308	0.00	BR
82030	0.00	BR	82310	0.00	BR
82040	0.00	BR	82330	0.00	\$23.00
82042	0.00	\$3.30	82331	0.00	BR
82043	0.00	BR	82340	0.00	\$11.00
82044	0.00	BR	82355	0.00	BR
82055	0.00	\$31.00	82360	0.00	BR
82075	0.00	\$35.00	82365	0.00	BR
82085	0.00	BR	82370	0.00	BR
82088	0.00	BR	82374	0.00	BR



82375	0.00	\$19.80	82608	0.00	BR
82376	0.00	BR	82615	0.00	BR
82378	0.00	BR	82626	0.00	BR
82379	0.00	BR	82627	0.00	BR
82380	0.00	BR	82633	0.00	BR
82382	0.00	BR	82634	0.00	BR
82383	0.00	BR	82638	0.00	BR
82384	0.00	BR	82646	0.00	BR
82387	0.00	BR	82649	0.00	BR
82390	0.00	BR	82651	0.00	BR
82397	0.00	BR	82652	0.00	BR
82415	0.00	BR	82654	0.00	BR
82435	0.00	BR	82657	0.00	BR
82436	0.00	\$7.70	82658	0.00	BR
82438	0.00	BR	82664	0.00	BR
82441	0.00	BR	82666	0.00	BR
82465	0.00	BR	82668	0.00	BR
82480	0.00	BR	82670	0.00	BR
82482	0.00	\$9.90	82671	0.00	BR
82485	0.00	BR	82672	0.00	BR
82486	0.00	\$27.00	82677	0.00	BR
82487	0.00	\$9.63	82679	0.00	BR
82488	0.00	\$9.63	82690	0.00	BR
82489	0.00	\$9.63	82693	0.00	BR
82491	0.00	BR	82696	0.00	BR
82492	0.00	BR	82705	0.00	\$13.20
82495	0.00	\$16.50	82710	0.00	\$32.18
82507	0.00	\$13.20	82715	0.00	BR
82520	0.00	BR	82725	0.00	BR
82523	0.00	BR	82726	0.00	BR
82525	0.00	BR	82728	0.00	BR
82528	0.00	BR	82731	0.00	BR
82530	0.00	BR	82735	0.00	\$16.50
82533	0.00	BR	82742	0.00	BR
82540	0.00	\$19.80	82746	0.00	BR
82541	0.00	BR	82747	0.00	BR
82542	0.00	BR	82757	0.00	BR
82543	0.00	BR	82759	0.00	BR
82544	0.00	BR	82760	0.00	BR
82550	0.00	\$8.00	82775	0.00	BR
82552	0.00	\$23.25	82776	0.00	BR
82553	0.00	\$20.90	82784	0.00	BR
82554	0.00	BR	82785	0.00	BR
82565	0.00	BR	82787	0.00	BR
82570	0.00	BR	82800	0.00	\$3.30
82575	0.00	BR	82803	0.00	\$13.20
82585	0.00	BR	82805	0.00	BR
82595	0.00	BR	82810	0.00	BR
82600	0.00	\$23.10	82820	0.00	BR
82607	0.00	BR	82926	0.00	BR



82928	0.00	BR	83088	0.00	BR
82938	0.00	BR	83150	0.00	BR
82941	0.00	BR	83491	0.00	BR
82943	0.00	BR	83497	0.00	BR
82946	0.00	BR	83498	0.00	BR
82947	0.00	BR	83499	0.00	BR
82948	0.00	BR	83500	0.00	BR
82950	0.00	BR	83505	0.00	BR
82951	0.00	\$19.00	83516	0.00	BR
82952	0.00	BR	83518	0.00	BR
82953	0.00	BR	83519	0.00	BR
82955	0.00	BR	83520	0.00	BR
82960	0.00	BR	83525	0.00	BR
82962	0.00	BR	83527	0.00	BR
82963	0.00	BR	83528	0.00	BR
82965	0.00	BR	83540	0.00	\$8.00
82975	0.00	BR	83550	0.00	\$9.08
82977	0.00	BR	83570	0.00	BR
82978	0.00	BR	83582	0.00	BR
82979	0.00	BR	83586	0.00	BR
82980	0.00	BR	83593	0.00	BR
82985	0.00	BR	83605	0.00	BR
83001	0.00	BR	83615	0.00	BR
83002	0.00	BR	83625	0.00	BR
83003	0.00	BR	83632	0.00	BR
83008	0.00	BR	83633	0.00	BR
83010	0.00	BR	83634	0.00	BR
83012	0.00	BR	83655	0.00	\$16.50
83013	0.00	BR	83661	0.00	BR
83014	0.00	BR	83662	0.00	BR
83015	0.00	\$13.20	83670	0.00	BR
83018	0.00	\$5.00	83690	0.00	\$9.90
83020	0.00	\$25.58	83715	0.00	\$24.20
83020	26 0.58	\$25.00	83716	0.00	BR
83021	0.00	BR	83718	0.00	\$8.25
83026	0.00	BR	83719	0.00	\$8.25
83030	0.00	BR	83721	0.00	\$8.25
83033	0.00	BR	83727	0.00	BR
83036	0.00	BR	83735	0.00	BR
83045	0.00	BR	83775	0.00	BR
83050	0.00	\$19.80	83785	0.00	\$16.50
83051	0.00	\$13.20	83788	0.00	BR
83055	0.00	\$17.60	83789	0.00	BR
83060	0.00	\$19.80	83805	0.00	\$25.58
83065	0.00	BR	83825	0.00	\$16.50
83068	0.00	BR	83835	0.00	BR
83069	0.00	\$3.30	83840	0.00	BR
83070	0.00	\$4.00	83857	0.00	BR
83071	0.00	\$4.13	83858	0.00	BR
83080	0.00	BR	83864	0.00	BR



83866	0.00	BR	84110	0.00	\$19.80
83872	0.00	BR	84119	0.00	BR
83873	0.00	BR	84120	0.00	BR
83874	0.00	BR	84126	0.00	BR
83883	0.00	BR	84127	0.00	BR
83885	0.00	\$13.20	84132	0.00	BR
83887	0.00	BR	84133	0.00	BR
83890	0.00	BR	84134	0.00	BR
83891	0.00	BR	84135	0.00	BR
83892	0.00	BR	84138	0.00	BR
83893	0.00	BR	84140	0.00	BR
83894	0.00	BR	84143	0.00	BR
83896	0.00	BR	84144	0.00	BR
83897	0.00	BR	84146	0.00	BR
83898	0.00	BR	84150	0.00	BR
83901	0.00	BR	84153	0.00	BR
83902	0.00	BR	84154	0.00	BR
83903	0.00	BR	84155	0.00	\$3.00
83904	0.00	BR	84160	0.00	\$4.00
83905	0.00	BR	84165	0.00	\$25.58
83906	0.00	BR	84165	26 0.58	\$25.00
83912	0.00	BR	84181	0.00	BR
83912	26 0.58	\$24.79	84181	26 0.58	\$24.89
83915	0.00	BR	84182	0.00	BR
83916	0.00	BR	84182	26 0.58	\$24.89
83918	0.00	BR	84202	0.00	BR
83919	0.00	BR	84203	0.00	BR
83925	0.00	\$5.78	84206	0.00	BR
83930	0.00	\$13.20	84207	0.00	BR
83935	0.00	BR	84210	0.00	BR
83937	0.00	BR	84220	0.00	BR
83945	0.00	BR	84228	0.00	BR
83970	0.00	BR	84233	0.00	BR
83986	0.00	\$3.30	84234	0.00	BR
83992	0.00	\$17.60	84235	0.00	BR
84022	0.00	BR	84238	0.00	BR
84030	0.00	BR	84244	0.00	BR
84035	0.00	BR	84252	0.00	BR
84060	0.00	BR	84255	0.00	\$13.20
84061	0.00	BR	84260	0.00	BR
84066	0.00	BR	84270	0.00	BR
84075	0.00	BR	84275	0.00	BR
84078	0.00	\$19.80	84285	0.00	BR
84080	0.00	\$27.50	84295	0.00	BR
84081	0.00	BR	84300	0.00	\$7.98
84085	0.00	BR	84305	0.00	BR
84087	0.00	BR	84307	0.00	BR
84100	0.00	BR	84311	0.00	\$6.88
84105	0.00	BR	84315	0.00	\$3.30
84106	0.00	\$9.90	84375	0.00	\$9.63



84376	0.00	BR	84681	0.00	BR
84377	0.00	BR	84702	0.00	BR
84378	0.00	BR	84703	0.00	BR
84379	0.00	BR	84830	0.00	BR
84392	0.00	BR	84999	0.00	BR
84402	0.00	BR	85002	0.00	\$9.90
84403	0.00	BR	85007	0.00	\$7.00
84425	0.00	BR	85008	0.00	\$0.83
84430	0.00	\$25.58	85009	0.00	\$7.98
84432	0.00	BR	85013	0.00	\$2.48
84436	0.00	BR	85014	0.00	\$3.30
84437	0.00	BR	85018	0.00	\$8.00
84439	0.00	BR	85021	0.00	\$5.50
84442	0.00	BR	85022	0.00	\$16.00
84443	0.00	BR	85023	0.00	BR
84445	0.00	BR	85024	0.00	BR
84446	0.00	BR	85025	0.00	BR
84449	0.00	BR	85027	0.00	\$6.88
84450	0.00	BR	85031	0.00	\$12.10
84460	0.00	BR	85041	0.00	\$3.30
84466	0.00	BR	85044	0.00	BR
84478	0.00	\$8.00	85045	0.00	BR
84479	0.00	BR	85046	0.00	BR
84480	0.00	BR	85048	0.00	\$3.30
84481	0.00	BR	85060	0.82	\$35.09
84482	0.00	BR	85095	2.71	\$116.21
84484	0.00	BR	85097	2.01	\$86.38
84485	0.00	BR	85102	3.13	\$134.45
84488	0.00	BR	85130	0.00	BR
84490	0.00	BR	85170	0.00	\$6.60
84510	0.00	BR	85175	0.00	\$20.90
84512	0.00	BR	85210	0.00	BR
84520	0.00	BR	85220	0.00	BR
84525	0.00	BR	85230	0.00	BR
84540	0.00	\$7.70	85240	0.00	BR
84545	0.00	\$12.10	85244	0.00	BR
84550	0.00	\$11.00	85245	0.00	BR
84560	0.00	BR	85246	0.00	BR
84577	0.00	BR	85247	0.00	BR
84578	0.00	BR	85250	0.00	BR
84580	0.00	BR	85260	0.00	BR
84583	0.00	BR	85270	0.00	BR
84585	0.00	BR	85280	0.00	BR
84586	0.00	BR	85290	0.00	BR
84588	0.00	BR	85291	0.00	BR
84590	0.00	BR	85292	0.00	BR
84597	0.00	BR	85293	0.00	BR
84600	0.00	\$22.55	85300	0.00	BR
84620	0.00	BR	85301	0.00	BR
84630	0.00	\$13.20	85302	0.00	BR



85303	0.00	BR	85660	0.00	BR
85305	0.00	BR	85670	0.00	BR
85306	0.00	BR	85675	0.00	BR
85335	0.00	BR	85705	0.00	BR
85337	0.00	BR	85730	0.00	\$9.90
85345	0.00	\$9.90	85732	0.00	BR
85347	0.00	\$9.90	85810	0.00	BR
85348	0.00	\$9.90	85999	0.00	BR
85360	0.00	BR	86000	0.00	BR
85362	0.00	BR	86003	0.00	BR
85366	0.00	BR	86005	0.00	BR
85370	0.00	BR	86021	0.00	BR
85378	0.00	BR	86022	0.00	BR
85379	0.00	BR	86023	0.00	BR
85384	0.00	BR	86038	0.00	\$26.00
85385	0.00	BR	86039	0.00	\$11.55
85390	0.00	BR	86060	0.00	\$7.98
85390	26 0.58	\$24.89	86063	0.00	BR
85400	0.00	BR	86077	1.32	\$56.76
85410	0.00	BR	86078	1.37	\$58.59
85415	0.00	BR	86079	1.36	\$58.16
85420	0.00	BR	86140	0.00	\$6.60
85421	0.00	BR	86147	0.00	BR
85441	0.00	BR	86148	0.00	BR
85445	0.00	BR	86155	0.00	BR
85460	0.00	BR	86156	0.00	BR
85461	0.00	BR	86157	0.00	BR
85475	0.00	BR	86160	0.00	BR
85520	0.00	BR	86161	0.00	BR
85525	0.00	BR	86162	0.00	BR
85530	0.00	BR	86171	0.00	BR
85535	0.00	BR	86185	0.00	BR
85540	0.00	BR	86215	0.00	BR
85547	0.00	BR	86225	0.00	BR
85549	0.00	BR	86226	0.00	BR
85555	0.00	BR	86235	0.00	BR
85557	0.00	BR	86243	0.00	BR
85576	0.00	BR	86255	0.00	BR
85576	26 0.58	\$25.00	86255	26 0.59	\$25.22
85585	0.00	BR	86256	0.00	BR
85590	0.00	BR	86256	26 0.58	\$25.00
85595	0.00	BR	86277	0.00	BR
85597	0.00	BR	86280	0.00	BR
85610	0.00	\$7.70	86308	0.00	\$6.33
85611	0.00	BR	86309	0.00	BR
85612	0.00	BR	86310	0.00	BR
85613	0.00	BR	86316	0.00	BR
85635	0.00	BR	86317	0.00	BR
85651	0.00	\$8.00	86318	0.00	BR
85652	0.00	\$8.00	86320	0.00	BR



86320	26 0.59	\$25.22	86632	0.00	BR
86325	0.00	BR	86635	0.00	BR
86325	26 0.58	\$25.00	86638	0.00	BR
86327	0.00	BR	86641	0.00	BR
86327	26 0.63	\$27.15	86644	0.00	BR
86329	0.00	BR	86645	0.00	BR
86331	0.00	BR	86648	0.00	BR
86332	0.00	BR	86651	0.00	BR
86334	0.00	BR	86652	0.00	BR
86334	26 0.58	\$24.89	86653	0.00	BR
86337	0.00	BR	86654	0.00	BR
86340	0.00	BR	86658	0.00	BR
86341	0.00	BR	86663	0.00	BR
86343	0.00	BR	86664	0.00	BR
86344	0.00	BR	86665	0.00	BR
86353	0.00	BR	86668	0.00	BR
86359	0.00	BR	86671	0.00	BR
86360	0.00	BR	86674	0.00	BR
86361	0.00	BR	86677	0.00	BR
86376	0.00	BR	86682	0.00	BR
86378	0.00	BR	86684	0.00	BR
86382	0.00	BR	86687	0.00	BR
86384	0.00	BR	86688	0.00	BR
86403	0.00	BR	86689	0.00	BR
86406	0.00	BR	86692	0.00	BR
86430	0.00	\$6.60	86694	0.00	BR
86431	0.00	\$6.60	86695	0.00	BR
86485	0.00	BR	86698	0.00	BR
86490	0.32	\$13.84	86701	0.00	BR
86510	0.35	\$15.02	86702	0.00	BR
86580	0.28	\$12.02	86703	0.00	BR
86585	0.22	\$9.44	86704	0.00	BR
86586	0.00	BR	86705	0.00	BR
86588	0.00	BR	86706	0.00	BR
86590	0.00	BR	86707	0.00	BR
86592	0.00	\$6.33	86708	0.00	BR
86593	0.00	\$6.33	86709	0.00	BR
86602	0.00	BR	86710	0.00	BR
86603	0.00	BR	86713	0.00	BR
86606	0.00	BR	86717	0.00	BR
86609	0.00	BR	86720	0.00	BR
86612	0.00	BR	86723	0.00	BR
86615	0.00	BR	86727	0.00	BR
86617	0.00	BR	86729	0.00	BR
86618	0.00	BR	86732	0.00	BR
86619	0.00	BR	86735	0.00	BR
86622	0.00	BR	86738	0.00	BR
86625	0.00	BR	86741	0.00	BR
86628	0.00	BR	86744	0.00	BR
86631	0.00	BR	86747	0.00	BR



86750	0.00	BR	86927	0.00	BR
86753	0.00	BR	86930	0.00	BR
86756	0.00	BR	86931	0.00	BR
86759	0.00	BR	86932	0.00	BR
86762	0.00	BR	86940	0.00	BR
86765	0.00	BR	86941	0.00	BR
86768	0.00	BR	86945	0.00	BR
86771	0.00	BR	86950	0.00	BR
86774	0.00	BR	86965	0.00	BR
86777	0.00	BR	86970	0.00	BR
86778	0.00	BR	86971	0.00	BR
86781	0.00	BR	86972	0.00	BR
86784	0.00	BR	86975	0.00	BR
86787	0.00	BR	86976	0.00	BR
86790	0.00	BR	86977	0.00	BR
86793	0.00	BR	86978	0.00	BR
86800	0.00	BR	86985	0.00	BR
86803	0.00	BR	86999	0.00	BR
86804	0.00	BR	87001	0.00	BR
86805	0.00	BR	87003	0.00	BR
86806	0.00	BR	87015	0.00	BR
86807	0.00	BR	87040	0.00	\$15.40
86808	0.00	BR	87045	0.00	BR
86812	0.00	BR	87060	0.00	BR
86813	0.00	BR	87070	0.00	BR
86816	0.00	BR	87072	0.00	BR
86817	0.00	BR	87075	0.00	\$33.00
86821	0.00	BR	87076	0.00	BR
86822	0.00	BR	87081	0.00	BR
86849	0.00	BR	87082	0.00	BR
86850	0.00	BR	87083	0.00	BR
86860	0.00	BR	87084	0.00	BR
86870	0.00	BR	87085	0.00	BR
86880	0.00	BR	87086	0.00	BR
86885	0.00	BR	87087	0.00	BR
86886	0.00	BR	87088	0.00	BR
86890	0.00	BR	87101	0.00	BR
86891	0.00	BR	87102	0.00	BR
86900	0.00	BR	87103	0.00	BR
86901	0.00	BR	87106	0.00	BR
86903	0.00	BR	87109	0.00	BR
86904	0.00	BR	87110	0.00	BR
86905	0.00	BR	87116	0.00	BR
86906	0.00	BR	87117	0.00	BR
86910	0.00	BR	87118	0.00	BR
86911	0.00	BR	87140	0.00	BR
86915	0.00	BR	87143	0.00	BR
86920	0.00	BR	87145	0.00	BR
86921	0.00	BR	87147	0.00	BR
86922	0.00	BR	87151	0.00	BR



87155	0.00	BR	87385	0.00	BR
87158	0.00	BR	87390	0.00	BR
87163	0.00	BR	87391	0.00	BR
87164	0.00	BR	87420	0.00	BR
87164	26 0.57	\$24.57	87425	0.00	BR
87166	0.00	BR	87430	0.00	BR
87174	0.00	BR	87449	0.00	BR
87175	0.00	BR	87450	0.00	BR
87176	0.00	BR	87470	0.00	BR
87177	0.00	BR	87471	0.00	BR
87181	0.00	\$3.30	87472	0.00	BR
87184	0.00	\$9.90	87475	0.00	BR
87186	0.00	BR	87476	0.00	BR
87187	0.00	BR	87477	0.00	BR
87188	0.00	BR	87480	0.00	BR
87190	0.00	BR	87481	0.00	BR
87192	0.00	\$15.68	87482	0.00	BR
87197	0.00	\$15.95	87485	0.00	BR
87205	0.00	\$7.98	87486	0.00	BR
87206	0.00	\$7.98	87487	0.00	BR
87207	0.00	\$13.20	87490	0.00	BR
87207	26 0.59	\$25.22	87491	0.00	BR
87208	0.00	BR	87492	0.00	BR
87210	0.00	\$7.98	87495	0.00	BR
87211	0.00	BR	87496	0.00	BR
87220	0.00	\$7.98	87497	0.00	BR
87230	0.00	BR	87510	0.00	BR
87250	0.00	\$73.98	87511	0.00	BR
87252	0.00	BR	87512	0.00	BR
87253	0.00	BR	87515	0.00	BR
87260	0.00	BR	87516	0.00	BR
87265	0.00	BR	87517	0.00	BR
87270	0.00	BR	87520	0.00	BR
87272	0.00	BR	87521	0.00	BR
87274	0.00	BR	87522	0.00	BR
87276	0.00	BR	87525	0.00	BR
87278	0.00	BR	87526	0.00	BR
87280	0.00	BR	87527	0.00	BR
87285	0.00	BR	87528	0.00	BR
87290	0.00	BR	87529	0.00	BR
87299	0.00	BR	87530	0.00	BR
87301	0.00	BR	87531	0.00	BR
87320	0.00	BR	87532	0.00	BR
87324	0.00	BR	87533	0.00	BR
87328	0.00	BR	87534	0.00	BR
87332	0.00	BR	87535	0.00	BR
87335	0.00	BR	87536	0.00	BR
87340	0.00	BR	87537	0.00	BR
87350	0.00	BR	87538	0.00	BR
87380	0.00	BR	87539	0.00	BR



87540	0.00	BR	88104	26 0.83	\$35.41
87541	0.00	BR	88106	1.00	\$42.81
87542	0.00	BR	88106	TC 0.20	\$8.69
87550	0.00	BR	88106	26 0.80	\$34.12
87551	0.00	BR	88107	1.33	\$56.87
87552	0.00	BR	88107	TC 0.27	\$11.59
87555	0.00	BR	88107	26 1.06	\$45.28
87556	0.00	BR	88108	1.11	\$47.43
87557	0.00	BR	88108	TC 0.27	\$11.59
87560	0.00	BR	88108	26 0.84	\$35.84
87561	0.00	BR	88125	0.39	\$16.52
87562	0.00	BR	88125	TC 0.04	\$1.72
87580	0.00	BR	88125	26 0.35	\$14.81
87581	0.00	BR	88130	0.00	BR
87582	0.00	BR	88140	0.00	BR
87590	0.00	BR	88141	0.76	\$32.51
87591	0.00	BR	88142	0.00	BR
87592	0.00	BR	88143	0.00	BR
87620	0.00	BR	88144	0.00	BR
87621	0.00	BR	88145	0.00	BR
87622	0.00	BR	88147	0.00	BR
87650	0.00	BR	88148	0.00	BR
87651	0.00	BR	88150	0.00	BR
87652	0.00	BR	88152	0.00	BR
87797	0.00	BR	88153	0.00	BR
87798	0.00	BR	88154	0.00	BR
87799	0.00	BR	88155	0.00	BR
87810	0.00	BR	88160	0.89	\$38.09
87850	0.00	BR	88160	TC 0.19	\$8.15
87880	0.00	BR	88160	26 0.70	\$29.94
87899	0.00	BR	88161	0.96	\$41.10
87999	0.00	BR	88161	TC 0.23	\$9.87
88000	0.00	BR	88161	26 0.73	\$31.22
88005	0.00	BR	88162	1.62	\$69.53
88007	0.00	BR	88162	TC 0.43	\$18.46
88012	0.00	BR	88162	26 1.19	\$51.07
88014	0.00	BR	88164	0.00	BR
88016	0.00	BR	88165	0.00	BR
88020	0.00	BR	88166	0.00	BR
88025	0.00	BR	88167	0.00	BR
88027	0.00	BR	88170	2.04	\$103.01
88028	0.00	BR	88170	TC 0.54	\$23.18
88029	0.00	BR	88170	26 1.86	\$79.83
88036	0.00	BR	88171	2.72	\$116.64
88037	0.00	BR	88171	TC 0.72	\$31.01
88040	0.00	BR	88171	26 2.00	\$85.63
88045	0.00	BR	88172	1.38	\$59.02
88099	0.00	BR	88172	TC 0.40	\$17.17
88104	1.08	\$46.14	88172	26 0.98	\$41.85
88104	TC 0.25	\$10.73	88173	2.40	\$103.01



88173	TC 0.48	\$20.49	88307	3.30	\$141.42
88173	26 1.92	\$82.51	88307	TC 0.85	\$36.59
88180	0.73	\$31.33	88307	26 2.44	\$104.83
88180	TC 0.19	\$8.15	88309	4.43	\$190.03
88180	26 0.54	\$23.18	88309	TC 1.06	\$45.50
88182	1.75	\$75.00	88309	26 3.37	\$144.53
88182	TC 0.51	\$21.89	88311	0.48	\$20.39
88182	26 1.24	\$53.11	88311	TC 0.11	\$4.72
88199	0.00	BR	88311	26 0.37	\$15.67
88199	TC 0.00	BR	88312	0.85	\$36.48
88199	26 0.00	BR	88312	TC 0.13	\$5.58
88230	0.00	BR	88312	26 0.72	\$30.90
88233	0.00	BR	88313	0.48	\$20.39
88235	0.00	BR	88313	TC 0.11	\$4.72
88237	0.00	BR	88313	26 0.37	\$15.67
88239	0.00	BR	88314	1.11	\$47.75
88240	0.00	BR	88314	TC 0.31	\$13.31
88241	0.00	BR	88314	26 0.80	\$34.44
88245	0.00	BR	88318	0.70	\$30.15
88248	0.00	BR	88318	TC 0.13	\$5.58
88249	0.00	BR	88318	26 0.57	\$24.57
88261	0.00	BR	88319	1.09	\$46.57
88262	0.00	BR	88319	TC 0.27	\$11.59
88263	0.00	BR	88319	26 0.82	\$34.98
88264	0.00	BR	88321	1.89	\$81.01
88267	0.00	BR	88323	2.21	\$94.75
88269	0.00	BR	88323	TC 0.38	\$16.31
88271	0.00	BR	88323	26 1.83	\$78.44
88272	0.00	BR	88325	2.94	\$125.97
88273	0.00	BR	88329	1.08	\$46.46
88274	0.00	BR	88331	2.42	\$103.97
88275	0.00	BR	88331	TC 0.62	\$26.61
88280	0.00	BR	88331	26 1.80	\$77.36
88283	0.00	BR	88332	1.22	\$52.15
88285	0.00	BR	88332	TC 0.31	\$13.31
88289	0.00	BR	88332	26 0.91	\$38.84
88291	0.74	\$31.76	88342	1.59	\$68.14
88299	0.00	BR	88342	TC 0.36	\$15.45
88300	0.29	\$12.45	88342	26 1.23	\$52.68
88300	TC 0.11	\$4.72	88346	1.53	\$65.77
88300	26 0.18	\$7.73	88346	TC 0.31	\$13.31
88302	0.57	\$24.36	88346	26 1.22	\$52.47
88302	TC 0.27	\$11.59	88347	1.40	\$59.87
88302	26 0.30	\$12.77	88347	TC 0.31	\$13.31
88304	0.84	\$35.95	88347	26 1.09	\$46.57
88304	TC 0.38	\$16.31	88348	3.94	\$168.89
88304	26 0.46	\$19.64	88348	TC 1.24	\$53.33
88305	1.87	\$80.15	88348	26 2.69	\$115.56
88305	TC 0.57	\$24.57	88349	2.41	\$103.33
88305	26 1.30	\$55.58	88349	TC 0.87	\$37.45



88349	26 1.54	\$65.88	89136	0.79	\$33.80
88355	3.77	\$161.92	89140	1.98	\$84.98
88355	TC 0.94	\$40.34	89141	1.94	\$83.16
88355	26 2.83	\$121.57	89160	0.00	BR
88356	5.97	\$256.13	89190	0.00	BR
88356	TC 1.44	\$61.70	89250	0.00	BR
88356	26 4.53	\$194.43	89251	0.00	BR
88358	5.44	\$233.38	89252	0.00	BR
88358	TC 1.32	\$56.65	89253	0.00	BR
88358	26 4.12	\$176.72	89254	0.00	BR
88362	4.36	\$186.92	89255	0.00	BR
88362	TC 1.10	\$47.21	89256	0.00	BR
88362	26 3.26	\$139.70	89257	0.00	BR
88365	1.77	\$76.08	89258	0.00	BR
88365	TC 0.42	\$18.03	89259	0.00	BR
88365	26 1.35	\$58.05	89260	0.00	BR
88371	0.00	BR	89261	0.00	BR
88371	26 0.57	\$24.57	89264	0.00	BR
88372	0.00	BR	89300	0.00	BR
88372	26 0.58	\$24.89	89310	0.00	BR
88399	0.00	BR	89320	0.00	BR
88399	TC 0.00	BR	89325	0.00	BR
88399	26 0.00	BR	89329	0.00	BR
89050	0.00	BR	89330	0.00	BR
89051	0.00	BR	89350	0.44	\$18.99
89060	0.00	BR	89355	0.00	BR
89060	26 0.59	\$25.22	89360	0.49	\$20.92
89100	1.21	\$51.83	89365	0.00	BR
89105	1.53	\$65.77	89399	0.00	BR
89125	0.00	BR	89399	TC 0.00	BR
89130	1.14	\$49.04	89399	26 0.00	BR
89132	0.73	\$31.12			
89135	1.49	\$64.06			

CPT Codes copyright 1996  
Refer to CPT for description  
Fees developed by BWC-HCSD

Table 1501-C-Orthotics and Prosthetics

Code	Payment	Code	Payment	Code	Payment
L0120	\$17.29	L0180	\$314.44	LO317	\$255.89
L0130	\$117.02	L0190	\$407.89	LO320	\$336.00
L0140	\$42.00	L0200	\$430.12	L0330	\$476.12
L0150	\$74.60	L0210	\$28.85	L0340	\$567.22
L0160	\$119.82	L0220	\$90.00	L0350	\$696.40
L0170	\$796.31	L0300	\$124.59	L0360	\$1,551.72
L0172	\$110.00	L0310	\$242.46	L0370	\$349.60
L0174	\$194.07	L0315	\$213.27	L0380	\$614.95

CPT codes copyright by American Medical Association 1998  
Refer to CPT for complete description  
Fees developed by BWDC HCSD



L0390	\$1,400.30	L1090	\$79.64	L1960	\$530.36
L0400	\$1,498.32	L1100	\$138.17	L1970	\$618.24
L0410	\$1,626.40	L1110	\$221.90	L1980	\$318.88
L0420	\$1,886.09	L1120	\$34.51	L1990	\$459.09
L0430	\$1,062.50	L1200	\$1,424.25	L2000	\$881.27
L0440	\$899.60	L1210	\$227.34	L2010	\$803.35
L0500	\$99.00	L1220	\$192.48	L2020	\$1,132.33
L0510	\$214.00	L1230	\$493.91	L2030	\$880.19
L0515	\$176.00	L1240	\$67.46	L2036	\$2,022.35
L0520	\$358.03	L1250	\$62.77	L2037	\$1,447.16
L0530	\$359.95	L1260	\$65.74	L2038	\$1,024.83
L0540	\$387.68	L1270	\$67.32	L2040	\$154.26
L0550	\$1,273.00	L1280	\$74.95	L2050	\$413.88
L0560	\$1,590.56	L1290	\$68.29	L2060	\$504.44
L0565	\$902.84	L1300	\$1,451.36	L2070	\$116.84
L0600	\$60.09	L1310	\$1,493.46	L2080	\$312.50
L0610	\$224.46	L1499	BR	L2090	\$380.99
L0620	\$367.86	L1500	\$1,650.36	L2102	\$521.09
L0700	\$1,779.93	L1510	\$828.93	L2104	\$619.81
L0710	\$1,882.90	L1520	\$1,486.64	L2106	\$747.33
L0810	\$2,371.87	L1685	\$1,033.49	L2108	\$1,170.03
L0820	\$1,876.79	L1686	\$653.04	L2112	\$304.03
L0830	\$2,829.65	L1800	\$43.34	L2114	\$440.38
L0860	\$960.00	L1810	\$81.00	L2116	\$537.16
L0900	\$104.34	L1815	\$63.13	L2122	\$891.10
L0910	\$302.09	L1820	\$103.00	L2124	\$992.94
L0920	\$110.60	L1825	\$35.83	L2126	\$1,356.79
L0930	\$328.72	L1830	\$57.01	L2128	\$1,498.50
L0940	\$103.04	L1832	\$480.05	L2132	\$525.66
L0950	\$299.10	L1834	\$674.46	L2134	\$803.12
L0960	\$60.01	L1840	\$798.89	L2136	\$878.87
L0970	\$99.30	L1844	\$734.88	L2180	\$101.75
L0972	\$89.42	L1845	\$583.78	L2182	\$79.63
L0974	\$155.56	L1846	\$985.10	L2184	\$107.63
L0976	\$138.95	L1850	\$187.57	L2186	\$130.80
L0978	\$167.24	L1855	\$954.77	L2188	\$260.22
L0980	\$15.17	L1858	\$1,221.93	L2190	\$59.45
L0982	\$14.15	L1860	\$1,383.48	L2192	\$309.80
L0984	\$47.18	L1870	\$909.28	L2200	\$41.30
L1000	\$1,763.98	L1880	\$550.82	L2210	\$58.40
L1010	\$58.31	L1900	\$234.40	L2220	\$71.16
L1020	\$75.11	L1902	\$52.02	L2230	\$66.67
L1025	\$108.35	L1904	\$333.00	L2240	\$72.66
L1030	\$55.27	L1906	\$86.17	L2250	\$308.74
L1040	\$67.79	L1910	\$174.27	L2260	\$174.17
L1050	\$72.34	L1920	\$286.29	L2265	\$102.31
L1060	\$83.09	L1930	\$175.57	L2270	\$46.67
L1070	\$78.18	L1940	\$429.68	L2275	\$103.91
L1080	\$48.08	L1945	\$1,145.70	L2280	\$393.43
L1085	\$133.74	L1950	\$647.18	L2300	\$233.93



L2310	\$106.88	L2820	\$75.46	L3410	\$64.00
L2320	\$178.76	L2830	\$81.62	L3420	\$32.00
L2330	\$341.16	L2840	\$30.06	L3430	\$44.00
L2335	\$197.38	L2850	\$42.15	L3440	\$35.00
L2340	\$388.32	L2999	BR	L3500	BR
L2350	\$774.19	L3000	\$170.00	L3510	BR
L2360	\$44.96	L3001	BR	L3520	BR
L2370	\$223.04	L3002	\$99.00	L3530	BR
L2375	\$99.17	L3003	\$99.00	L3540	BR
L2380	\$106.97	L3010	\$135.00	L3550	BR
L2385	\$116.38	L3020	\$99.00	L3560	BR
L2390	\$95.11	L3030	BR	L3570	BR
L2395	\$101.95	L3040	BR	L3580	BR
L2397	\$87.81	L3050	BR	L3590	BR
L2405	\$44.22	L3060	BR	L3595	BR
L2415	\$159.56	L3070	BR	L3650	\$37.82
L2425	\$158.17	L3080	BR	L3660	\$65.54
L2435	\$143.80	L3090	BR	L3670	\$72.11
L2492	\$88.60	L3100	BR	L3700	\$44.51
L2500	\$274.10	L3150	BR	L3710	\$78.83
L2510	\$631.12	L3215	\$94.18	L3720	\$556.10
L2520	\$374.57	L3216	\$108.00	L3730	\$766.44
L2525	\$873.78	L3217	\$127.00	L3740	\$908.66
L2526	\$595.12	L3218	\$87.00	L3800	\$140.00
L2530	\$204.14	L3219	\$102.87	L3805	\$256.00
L2540	\$367.33	L3221	\$120.00	L3810	\$55.09
L2550	\$249.53	L3222	\$150.00	L3815	\$51.16
L2570	\$413.84	L3223	\$91.00	L3820	\$87.86
L2580	\$403.24	L3230	\$425.00	L3825	\$55.14
L2600	\$178.44	L3250	\$381.00	L3830	\$71.98
L2610	\$211.00	L3251	\$450.00	L3835	\$78.02
L2620	\$232.31	L3252	\$300.00	L3840	\$53.45
L2622	\$266.44	L3253	\$90.00	L3845	\$69.02
L2624	\$287.71	L3254	\$38.00	L3850	\$98.59
L2627	\$1,489.46	L3257	\$180.00	L3855	\$99.38
L2628	\$1,455.67	L3260	\$60.00	L3860	\$136.03
L2630	\$215.15	L3265	\$35.00	L3900	\$1,396.48
L2640	\$291.98	L3300	\$42.00	L3901	\$1,481.20
L2650	\$104.27	L3310	\$40.00	L3902	\$2,137.19
L2660	\$161.94	L3320	BR	L3904	\$2,354.94
L2670	\$148.21	L3330	\$275.00	L3906	\$384.00
L2680	\$135.96	L3332	\$18.00	L3907	\$406.00
L2750	\$72.62	L3334	\$25.00	L3908	\$38.21
L2760	\$52.79	L3340	\$70.00	L3910	\$253.61
L2770	\$53.64	L3350	\$13.00	L3912	\$69.00
L2780	\$58.80	L3360	\$15.00	L3914	\$62.00
L2785	\$27.54	L3370	\$22.00	L3916	\$109.00
L2795	\$57.13	L3380	\$32.00	L3918	\$64.00
L2800	\$92.00	L3390	\$15.00	L3920	\$90.00
L2810	\$67.86	L3400	\$56.00	L3922	\$75.02



L3924	\$88.95	L4210	BR	L5616	\$1,257.18
L3926	\$71.96	L4350	\$58.25	L5618	\$654.32
L3928	\$43.89	L4360	\$180.43	L5620	\$533.41
L3930	\$50.94	L4370	\$123.02	L5622	\$729.81
L3932	\$38.12	L4380	\$69.99	L5624	\$635.07
L3934	\$40.91	L5000	\$400.00	L5626	\$777.71
L3936	\$75.73	L5010	\$1,217.00	L5628	\$775.86
L3938	\$74.25	L5020	\$2,226.00	L5629	\$220.64
L3940	\$83.41	L5050	\$2,231.00	L5630	\$415.43
L3942	\$62.14	L5060	\$2,691.00	L5631	\$305.04
L3944	\$78.52	L5100	\$2,499.00	L5632	\$205.52
L3946	\$59.28	L5105	\$3,215.69	L5634	\$281.57
L3948	\$46.85	L5150	\$3,599.00	L5636	\$235.86
L3950	\$126.68	L5160	\$3,869.00	L5637	\$294.15
L3952	\$141.50	L5200	\$3,081.00	L5638	\$450.48
L3954	\$77.63	L5210	\$2,332.00	L5639	\$1,037.83
L3960	\$505.85	L5220	\$2,592.00	L5640	\$591.89
L3962	\$457.52	L5230	\$4,198.00	L5642	\$573.50
L3963	\$1,063.83	L5250	\$4,802.00	L5643	\$1,440.73
L3964	\$501.52	L5270	\$4,760.75	L5644	\$546.73
L3965	\$772.40	L5280	\$4,713.13	L5645	\$748.26
L3966	\$613.07	L5300	\$2,612.75	L5646	\$507.18
L3968	\$713.05	L5310	\$3,859.00	L5647	\$736.32
L3969	\$563.81	L5320	\$3,815.00	L5648	\$609.43
L3970	\$193.93	L5330	\$5,450.14	L5649	\$1,882.67
L3972	\$178.22	L5340	\$5,823.31	L5650	\$451.88
L3974	\$109.98	L5400	\$1,261.00	L5651	\$1,111.63
L3980	\$197.13	L5410	\$333.00	L5652	\$606.28
L3982	\$238.05	L5420	\$1,547.71	L5653	\$661.74
L3984	\$219.47	L5430	\$420.12	L5654	\$426.49
L3985	\$496.93	L5450	\$363.27	L5655	\$348.15
L3986	\$476.56	L5460	\$476.46	L5656	\$343.38
L3995	\$20.85	L5500	\$1,262.00	L5658	\$336.56
L3999	BR	L5505	\$1,685.00	L5660	\$533.65
L4000	\$1,107.83	L5510	\$1,535.00	L5661	\$563.29
L4010	\$942.50	L5520	\$1,347.00	L5662	\$489.35
L4020	\$748.37	L5530	\$1,752.00	L5663	\$637.86
L4030	\$438.67	L5535	\$1,569.73	L5664	\$614.54
L4040	\$354.66	L5540	\$1,765.00	L5665	\$473.96
L4045	\$285.01	L5560	\$1,829.00	L5666	\$64.80
L4050	\$358.70	L5570	\$1,840.00	L5667	\$1,390.99
L4055	\$232.27	L5580	\$2,352.00	L5668	\$93.48
L4060	\$276.12	L5585	\$2,696.00	L5669	\$1,060.00
L4070	\$244.52	L5590	\$2,225.22	L5670	\$300.76
L4080	\$87.00	L5595	\$3,727.16	L5672	\$276.02
L4090	\$78.46	L5600	\$4,115.89	L5674	\$48.81
L4100	\$90.62	L5610	\$1,916.47	L5675	\$66.16
L4110	\$73.68	L5611	\$1,491.40	L5676	\$335.44
L4130	\$431.00	L5613	\$2,268.50	L5677	\$456.40
L4205	\$20.00	L5614	\$3,508.49	L5678	\$30.33



L5680	\$281.74	L5950	BR	L6590	\$2,435.32
L5682	\$578.90	L5960	\$892.37	L6600	\$173.63
L5684	\$44.54	L5962	\$490.00	L6605	\$171.44
L5686	\$47.29	L5964	\$798.56	L6610	\$154.12
L5688	\$56.53	L5966	\$1,035.31	L6615	\$160.80
L5690	\$90.58	L5970	\$187.99	L6616	\$60.04
L5692	\$123.00	L5972	\$326.23	L6620	\$280.66
L5694	\$167.93	L5974	\$215.70	L6623	\$593.77
L5695	\$150.96	L5976	\$451.39	L6625	\$492.31
L5696	\$171.28	L5978	\$270.13	L6628	\$443.44
L5697	\$74.32	L5979	\$2,090.00	L6629	\$135.43
L5698	\$96.56	L5980	\$2,917.79	L6630	\$529.70
L5699	\$142.40	L5981	\$2,382.65	L6632	\$60.14
L5700	\$2,534.95	L5982	\$535.13	L6635	\$185.00
L5701	\$3,147.36	L5984	\$527.33	L6637	\$339.89
L5702	\$4,021.66	L5986	\$586.57	L6640	\$259.30
L5704	\$436.72	L5999	BR	L6641	\$148.50
L5705	\$800.64	L6000	\$1,229.90	L6642	\$201.28
L5706	\$780.94	L6010	\$1,368.70	L6645	\$295.49
L5707	\$1,049.19	L6020	\$1,276.09	L6650	\$313.32
L5710	\$332.93	L6050	\$2,263.00	L6655	\$69.53
L5711	\$483.34	L6055	\$2,450.75	L6660	\$84.96
L5712	\$398.87	L6100	\$2,229.00	L6665	\$42.64
L5714	\$387.18	L6110	\$2,284.04	L6670	\$44.39
L5716	\$674.65	L6120	\$2,202.07	L6672	\$156.07
L5718	\$843.24	L6130	\$2,396.27	L6675	\$111.16
L5722	\$835.75	L6200	\$2,982.00	L6676	\$112.26
L5724	\$1,397.20	L6205	\$3,370.85	L6680	\$396.63
L5726	BR	L6250	\$3,267.79	L6682	\$492.52
L5728	\$1,851.35	L6300	\$3,448.64	L6684	\$575.62
L5780	\$1,059.79	L6310	\$2,809.00	L6686	\$546.47
L5785	\$480.92	L6320	\$1,581.89	L6687	\$485.00
L5790	\$665.57	L6350	\$3,625.73	L6688	\$490.36
L5795	\$993.86	L6360	\$2,948.39	L6689	\$623.71
L5810	\$450.67	L6370	\$1,880.09	L6690	\$636.49
L5811	\$675.10	L6380	\$1,130.00	L6691	\$375.00
L5812	\$495.00	L6382	\$1,520.00	L6692	\$517.66
L5816	\$710.00	L6384	\$1,764.86	L6700	\$480.17
L5818	\$888.94	L6386	\$371.72	L6705	\$281.90
L5822	\$1,576.30	L6388	\$406.94	L6710	\$456.45
L5824	\$1,400.00	L6400	\$2,147.89	L6715	\$435.00
L5828	\$2,263.39	L6450	\$2,853.88	L6720	\$789.68
L5830	\$1,756.46	L6500	\$2,853.88	L6725	\$465.24
L5840	\$1,980.00	L6550	\$3,529.76	L6730	\$591.50
L5850	\$118.42	L6570	\$4,051.49	L6735	\$275.82
L5855	\$285.88	L6580	\$1,446.95	L6740	\$359.60
L5910	\$335.26	L6582	\$1,273.99	L6745	\$329.03
L5920	\$491.14	L6584	\$1,894.64	L6750	\$325.22
L5925	\$280.00	L6586	\$1,734.41	L6755	\$324.30
L5940	\$464.30	L6588	\$2,616.40	L6765	\$338.82



L6770	\$326.63	L7266	\$916.48
L6775	\$387.01	L7272	\$1,812.94
L6780	\$413.69	L7274	\$5,621.72
L6790	\$418.27	L7360	\$240.00
L6795	\$1,145.60	L7362	\$242.00
L6800	\$937.88	L7364	\$392.77
L6805	\$314.94	L7366	\$540.20
L6806	\$1,219.79	L7499	BR
L6809	\$343.46	L7500	\$80.00
L6810	\$172.66	L7510	BR
L6825	\$955.02	L8100	BR
L6830	\$1,253.51	L8110	BR
L6835	\$1,091.93	L8120	BR
L6840	\$758.59	L8130	BR
L6845	\$704.22	L8140	BR
L6850	\$637.78	L8150	BR
L6855	\$811.19	L8160	BR
L6860	\$615.22	L8170	BR
L6865	\$301.42	L8180	BR
L6875	\$719.47	L8190	BR
L6880	\$466.76	L8200	BR
L6890	\$190.00	L8210	BR
L6895	\$732.76	L8220	BR
L6900	\$1,989.50	L8300	\$58.56
L6905	\$1,990.23	L8310	\$92.46
L6910	\$2,001.88	L8320	\$37.11
L6915	\$774.57	L8330	\$34.27
L6920	\$6,434.34	L8400	\$23.02
L6925	\$6,874.02	L8410	\$19.18
L6930	\$6,197.18	L8415	\$19.84
L6935	\$6,841.72	L8420	\$18.01
L6940	\$8,002.61	L8430	\$20.50
L6945	\$8,927.91	L8435	\$19.46
L6950	\$7,987.74	L8440	\$38.71
L6955	\$9,263.27	L8460	\$61.69
L6960	\$9,744.62	L8465	\$45.16
L6965	\$11,544.00	L8470	\$6.18
L6970	\$12,356.57	L8480	\$8.52
L6975	\$13,619.84	L8485	\$10.17
L7010	\$3,174.94	L8490	\$134.87
L7015	\$5,611.94	L8499	BR
L7020	\$3,466.69	L8500	BR
L7025	\$3,428.95	L8501	BR
L7030	\$5,488.37	L8610	BR
L7035	\$3,648.62	L8699	BR
L7040	\$2,609.59		
L7170	\$5,427.59		
L7180	\$29,891.81		
L7260	\$1,821.71		
L7261	\$3,610.95		



## Fees for L-code procedures developed by BWC-HCSD

TABLE 1501-D				
Code	Descriptor	MAP	85%of	64%of MAP
90801	Psychiatric diagnostic interview	165.12	140.35	105.67
90802	Interactive psych diagnostic interview	162.12	137.80	103.76
90804	Psytx, office (20-30)	74.98	63.73	47.98
90805	Psytx, office (20-30) w/e&m	82.11		
90806	Psytx, office (45-50)	115.08	97.82	73.65
90807	Psytx, office (45-50) w/e&m	121.58		
90808	Psytx, office (75-80)	183.67	156.12	117.55
90809	Psytx, office (75-80) w/e&m	189.85		
90810	Intac psytx, office (20-30)	91.71	77.96	58.70
90811	Intac psytx, off 20-30 w/e&m	98.85		
90812	Intac psytx, office (45-50)	123.45	104.94	79.01
90813	Intac psytx, off 45-50 w/e&m	129.53		
90814	Intac psytx, office (75-80)	167.92	142.73	107.47
90815	Intac psytx, off 75-80 w/e&m	173.99		
90816	Psytx, hosp (20-30)	77.37	65.76	49.52
90817	Psytx, hosp (20-30) w/e&m	84.19		
90818	Psytx, hosp (45-50)	116.82	99.30	74.76
90819	Psytx, hosp (45-50) w/e&m	123.64		
90821	Psytx, hosp (75-80)	185.96	158.07	119.01
90822	Psytx, hosp (75-80) w/e&m	192.25		
90823	Intac psytx, hosp (20-30)	94.64	80.44	60.57
90824	Intac psytx, hosp. 20-30 w/e&m	101.14		
90826	Intac psytx, hosp (45-50)	125.74	106.88	80.47
90827	Intac psytx, hosp. 45-50 w/e&m	131.48		
90828	Intac psytx, hosp (75-80)	170.63	145.04	109.20
90829	Intac psytx, hosp. 75-80 w/e&m	175.75		
90845	Psychoanalysis	103.85	88.27	66.47
90846	Family psytx w/o patient	115.99	98.59	74.23
90847	Family psytx w/patient	132.58	112.69	84.85
90849	Multiple family group psytx	40.54	34.46	25.95
90853	Group psychotherapy	40.33	34.28	25.81



TABLE 1501-D

Code	Descriptor	MAP	85%of	64%of MAP
90857	Intac group psytx	38.37	32.62	24.56
90862	Medication management	62.81	53.39	40.20
90865	Narcosynthesis	194.48	165.31	124.47
90870	Electroconvulsive therapy	115.21	97.93	73.74
90871	Electroconvulsive therapy	168.73	143.42	107.99
90875	Psycho physiological therapy	64.56	54.88	41.32
90876	Psycho physiological therapy	100.39	85.33	64.25
90880	Hypnotherapy	132.61	112.72	84.87
90882	Environmental manipulation	0.00	0.00	0.00
90885	Psy evaluation of records	60.68	51.57	38.83
90887	Consultation with family	87.22	74.14	55.82
90889	Preparation of report	BR	BR	BR
90899	Psychiatric service/therapy	BR	BR	BR
90901	Biofeedback, any method	63.64	54.09	40.73
90911	Biofeedback peri/uro/rectal	108.33	92.08	69.33

Table 1501-E

Allowable

Code	Physical Medicine Procedure Codes	
97001	Physical Therapy Evaluation	\$78.54
97002	Physical Therapy Re-Evaluation	\$31.33
97003	Occupational Therapy Evaluation	\$80.68
97004	Occupational Therapy Re-Evaluation	\$31.76
97122	Deleted procedure code	
97140	Manual therapy techniques, each 15 minutes	\$28.75
97250	Deleted procedure code	
97260	Deleted procedure code	
97261	Deleted procedure code	
97265	Deleted procedure code	
97500	Deleted procedure code	
97501	Deleted procedure code	
97504	Orthotics fitting and training, each 15 minutes	\$28.33
97521	Deleted procedure code	
97780	Acupuncture, one or more needles; without elec. stim.	BR
97781	with electrical stimulation	BR



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Administrative Rules

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**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**DIRECTOR'S OFFICE**

**CHIROPRACTIC**

Filed with the Secretary of State on April 18, 2000.  
These rules take effect 15 days after filing with the Secretary of State

(By authority conferred on the director of the department of consumer and industry services by section 16145 of 1978 PA 368, MCL 333.16145, and Executive Reorganization Order No. 1996-2, MCL 445.2001)

R 338.12002, R 338.12003, R 338.12004, R 338.12005, R 338.12006, and R 338.12008 of the Michigan Administrative Code are amended, R 338.12008a is added to the Code, and R 338.12007 of the Code is rescinded as follows:

**R 338.12002 Licensure; application.**

- Rule 2. (1) An applicant for licensure shall apply on forms provided by the department.  
(2) An applicant shall submit application fees established by the legislature with the application.

**R 338.12003 Licensure by examination.**

Rule 3. An applicant for licensure by examination shall submit a completed application on a form provided by the department, together with the requisite fee. In addition to meeting the requirements of the code and these rules, an applicant for licensure by examination shall meet both of the following provisions:

- (a) Have graduated from a program or institution of chiropractic that meets the educational standards in R 338.12006 and have final, official transcripts provided to the department from the educational institution.
- (b) Shall meet one of the following:
  - (i) For applications filed on or before December 31, 2000, an applicant shall have achieved either of the following:
    - (A) A passing score on the state examination which is approved by the Michigan board of chiropractic and which is administered by the department of consumer and industry services pursuant to the provisions of R 338.12005(1).
    - (B) Passing scores on parts I and II of the national board examination. The scores and verification shall be sent directly from the national board office to the chiropractic board office.
  - (ii) For an application filed on or after January 1, 2001, an applicant shall have passed parts I, II, and III of the national board examination that is conducted and scored by the national board of chiropractic examiners.

**R 338.12004 Licensure by endorsement.**

- Rule 4. (1) An applicant for a chiropractic license by endorsement shall submit a completed application on a form provided by the department, together with the requisite fee. In addition to meeting the requirements of the code and these rules, an applicant shall satisfy the requirements of this rule.
- (2) If an applicant was licensed in another state before January 1, 2001, and has been engaged in the practice of chiropractic for a minimum of 5 years before the date of filing an application for Michigan licensure, it will be presumed that the applicant meets the requirements of section 16186(1)(a) and (b) of the code.



(3) If an applicant does not meet the requirements of subrule (2) of this rule, then the applicant, in addition to meeting the requirements of the code, shall have been licensed in another state and establish having passed the examination specified in R 338.12003(c).

**R 338.12005 Examination adoption.**

Rule 5. (1) The board approves and adopts the state examination conducted and scored by the department of consumer and industry services. The passing score for the examination shall be a converted score of not less than 75.

(2) The board approves and adopts the national board examination in chiropractic that is conducted and scored by the national board of chiropractic examiners. The passing score for the national board examination parts I, II, and III shall be a converted score of not less than 75.

**R 338.12006 Adoption of educational standards by reference.**

Rule 6. The board adopts by reference the standards of the council on chiropractic education, commission on accreditation, as specified in the publication entitled, "Standards for Chiropractic Programs and Institutions," January 1999. The standards are available from The Council on Chiropractic Education, 7975 North Hayden Road, Suite A210, Scottsdale, Arizona 85258, at no cost. The standards are also available at the Board of Chiropractic, Department of Consumer and Industry Services, 611 West Ottawa Street, P. O. Box 30670, Lansing, Michigan 48909.

**R 338.12007 Rescinded.**

**R 338.12008 License renewal and relicensure.**

Rule 8. (1) An applicant for renewal of a license to practice chiropractic or an applicant for relicensure under section 16201(3) of the code shall have completed, in the 2-year period immediately preceding the application, 24 hours of continuing education in programs approved by the board. This rule does not apply to licensees who have obtained their initial chiropractic license within the 2-year period immediately preceding the expiration date of the initial license.

(2) An applicant for relicensure under the provisions of section 16201(4) of the code shall comply with either of the following requirements:

(a) Have completed, in the 3-year period immediately preceding the application for relicensure, 36 hours of continuing education in programs approved by the board with not less than 24 hours in courses on chiropractic adjusting techniques.

(b) Have been continuously licensed and engaged in the practice of chiropractic in another state during the 3-year period immediately preceding the application for relicensure.

**R 338.12008a Continuing education; approval of programs; acceptable and unacceptable programs.**

Rule 8a. (1) The board shall consider any of the following as board-approved continuing education:

(a) Successful completion of a course or courses offered for credit in a chiropractic school approved by the board under R 338.12006.

(b) Successful completion of a continuing education program offered by a chiropractic school approved by the board under R 338.12006.

(c) Renewal of a license held in another state that requires continuing education for license renewal which is substantially equivalent to the requirements of these rules if the applicant resides and practices in that state.

(2) The board shall consider requests for approval of continuing education programs by sponsors who submit applications on a form provided by the department. For purposes of this rule, 1 hour of continuing education is defined as 50 minutes. The board shall evaluate applications for approval based upon all of the following:

(a) Programs shall have content outlines and schedules.

(b) Sponsors shall provide a listing of program materials.

(c) Sponsors shall provide information relative to the method for monitoring attendance.

(d) Sponsors shall furnish evidence of attendance to attendees.

(e) Program instructors or presenters shall demonstrate qualifications and knowledge in the subject matter.

(f) Programs shall relate to the general subject area of the practice of chiropractic.



(3) Programs considered for approval under subrules (1) and (2) of this rule shall not receive credit for those portions of programs covering subject areas that include practice building, marketing, administration, or financial advancement.



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Administrative Rules

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**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**DIRECTOR'S OFFICE**

**GENERAL INDUSTRY SAFETY STANDARDS**

Filed with the Secretary of State on April 19, 2000

This rule takes effect 15 days after filing with the Secretary of State

(By authority conferred on the director of the department of consumer and industry services by sections 16 and 21 of 1974 PA 154, MCL 408.1016 and 408.1021, and Executive Reorganization Order No. 1996-2, MCL 445.2001)

R 408.10679 of the Michigan Administrative Code is rescinded as follows:

**PART 6. FIRE EXITS**

**R 408.10679 RESCINDED**



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Administrative Rules

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**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**LAND AND WATER MANAGEMENT DIVISION**  
**WETLAND PROTECTION**

Filed with the Secretary of State on April 11, 2000.  
These rules take effect 15 days after filing with the Secretary of State.

[By authority conferred on the department of environmental quality by section 30319 of Act No. 451 of the Public Acts of 1994, as amended, being §324.30319 of the Michigan Compiled Laws]

R 281.925 of the Michigan Administrative Code is amended and R 281.922a is added as follows:

**R 281.922a. Permit application review criteria.**

Rule 2a. (1) The department shall review a permit application to undertake an activity listed in section 30304 of the act according to the criteria in section 30311 of the act.

(2) As required by subsection 30311(4) of the act, a permit applicant shall bear the burden of demonstrating that an unacceptable disruption to aquatic resources will not occur as a result of the proposed activity and demonstrating either of the following:

(a) The proposed activity is primarily dependent upon being located in the wetland.

(b) There are no feasible and prudent alternatives to the proposed activity.

(3) A permit applicant shall provide adequate information, including documentation as required by the department, to support the demonstrations required by section 30311 of the act. The department shall independently evaluate the information provided by the applicant to determine if the applicant has made the required demonstrations.

(4) A permit applicant shall completely define the purpose for which the permit is sought, including all associated activities. An applicant shall not so narrowly define the purpose as to limit a complete analysis of whether an activity is primarily dependent upon being located in the wetland and of feasible and prudent alternatives. The department shall independently evaluate and determine if the project purpose has been appropriately and adequately defined by the applicant, and shall process the application based on that determination.

(5) The department shall consider a proposed activity as primarily dependent upon being located in the wetland only if the activity is the type that requires a location within the wetland and wetland conditions to fulfill its basic purpose; that is, it is wetland-dependent. Any activity that can be undertaken in a non-wetland location is not primarily dependent upon being located in the wetland.

(6) An alternative is feasible and prudent if both of the following provisions apply:

(a) The alternative is available and capable of being done after taking into consideration cost, existing technology, and logistics.

(b) The alternative would have less adverse impact on aquatic resources. A feasible and prudent alternative may include any or all of the following:

Use of a location other than the proposed location.

A different configuration.

Size.

Method that will accomplish the basic project purpose.

The applicant shall demonstrate that, given all pertinent information, there are no feasible and prudent alternatives that have less impact on aquatic resources. In making this demonstration, the applicant may provide information regarding factors such as alternative construction technologies; alternative project layout



and design; local land use regulations and infrastructure; and pertinent environmental and resource issues. This list of factors is not exhaustive and no particular factor will necessarily be dispositive in any given case.

(7) If an activity is not primarily dependent upon being located in the wetland, it is presumed that a feasible and prudent alternative exists unless an applicant clearly demonstrates that a feasible and prudent alternative does not exist.

(8) Unless an applicant clearly demonstrates otherwise, it is presumed that a feasible and prudent alternative involving a non-wetland location will have less adverse impact on aquatic resources than an alternative involving a wetland location.

(9) An area not presently owned by the permit applicant that could reasonably be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed activity is a feasible and prudent alternative location.

(10) An alternative may be considered feasible and prudent even if it does not accommodate components of a proposed activity that are incidental to or severable from the basic purpose of the proposed activity.

(11) An alternative may be considered feasible and prudent even if it entails higher costs or reduced profit. However, the department shall consider the reasonableness of the higher costs or reduced profit in making its determination.

(12) The department may offer a permit for a modification of an activity proposed in an application if the proposed activity cannot be permitted under the criteria listed in section 30311 of the act and if the modification makes that activity consistent with the criteria listed in section 30311 of the act.

(a) The applicant may accept the permit for the modification of the proposed activity by signing it and returning it to the department within 30 days of the date of the offer. The permit shall be considered issued upon countersignature by the department.

(b) The permit application is considered denied if the applicant does not sign and return the permit for the modification of the proposed activity to the department within thirty days of the date of the offer. The permit applicant may then appeal the denial pursuant to sections 30307(2) and 30319(2) of the act.

(c) The date on which the modification is offered shall be considered the date of the department's approval or disapproval of the application pursuant to section 30307(2) of the act.

#### **R 281.925 Mitigation.**

Rule 5. (1) As authorized by section 30312(2) of the act, the department may impose conditions on a permit for a use or development if the conditions are designed to remove an impairment to the wetland benefits, to mitigate the impact of a discharge of fill material, or to otherwise improve the water quality.

(2) The department shall consider mitigation only after all of the following conditions are met:

(a) The wetland impacts are otherwise permissible under sections 30302 and 30311 of the act.

(b) No feasible and prudent alternative to avoid wetland impacts exists.

(c) An applicant has used all practical means to minimize impacts to wetlands. This may include the permanent protection of wetlands on the site not directly impacted by the proposed activity.

(3) The department shall require mitigation as a condition of a wetland permit issued under part 303 of the act, except as follows:

(a) The department may waive the mitigation condition if either of the following provisions applies:

(i) The permitted wetland impact is less than 1/3 of an acre and no reasonable opportunity for mitigation exists.

(ii) The basic purpose of the permitted activity is to create or restore wetlands or to increase wetland habitat.

(b) If an activity is authorized and permitted under the authority of a general permit issued under section 30312(1) of the act, then the department shall not require mitigation. Public transportation agencies may provide mitigation for projects authorized under a general permit at sites approved by the department under a memorandum of understanding between the department and public transportation agencies.

(4) The department shall require mitigation to compensate for unavoidable wetland impacts permitted under part 303 of the act utilizing one or more of the following methods:

(a) The restoration of previously existing wetlands.

(b) The creation of new wetlands.

(c) The acquisition of approved credits from a wetland mitigation bank established under R 281.951 et seq.

(d) In certain circumstances, the preservation of existing wetlands. The preservation of existing wetlands may be considered as mitigation only if the department determines that all of the following conditions are met:



- (i) The wetlands to be preserved perform exceptional physical or biological functions that are essential to the preservation of the natural resources of the state or the preserved wetlands are an ecological type that is rare or endangered.
- (ii) The wetlands to be preserved are under a demonstrable threat of loss or substantial degradation due to human activities that are not under the control of the applicant and that are not otherwise restricted by state law.
- (iii) The preservation of the wetlands as mitigation will ensure the permanent protection of the wetlands that would otherwise be lost or substantially degraded.
- (5) The restoration of previously existing wetlands is preferred over the creation of new wetlands where none previously existed. Enhancement of existing wetlands is not considered mitigation. For purposes of this rule, wetland restoration means the reestablishment of wetland characteristics and functions at a site where they have ceased to exist through the replacement of wetland hydrology, vegetation, or soils.
- (6) An applicant shall submit a mitigation plan when requested by the department. The department may incorporate all or part of the proposed mitigation plan as permit conditions. The mitigation plan shall include all of the following elements:
  - (a) A statement of mitigation goals and objectives, including the wetland types to be restored, created, or preserved.
  - (b) Information regarding the mitigation site location and ownership.
  - (c) A site development plan.
  - (d) A description of baseline conditions at the proposed mitigation site, including a vicinity map showing all existing rivers, lakes, and streams, and a delineation of existing surface waters and wetlands within the proposed mitigation area.
  - (e) Performance standards to evaluate the mitigation.
  - (f) A monitoring plan.
  - (g) A schedule for completion of the mitigation.
  - (h) Provisions for the management and long-term protection of the site. The department shall, when requested by the applicant, meet with the applicant to review the applicant's mitigation plan.
- (7) An applicant shall provide mitigation to assure that, upon completion, there will be no net loss of wetlands. The mitigation shall meet the following criteria as determined by the department:
  - (a) Mitigation shall be provided on-site where it is practical to mitigate on site and where beneficial to the wetland resources.
  - (b) If subdivision (a) of this subrule does not apply, then an applicant shall provide mitigation in the immediate vicinity of the permitted activity if practical and beneficial to the wetland resources. "Immediate vicinity" means within the same watershed as the location of the proposed project. For purposes of this rule, a watershed refers to a drainage area in which the permitted activity occurs where it may be possible to restore certain wetland functions, including hydrologic, water quality, and aquatic habitat functions. Watershed boundaries are shown in Figure 1 in R 281.951.
  - (c) Mitigation shall be on-site or in the immediate vicinity of the permitted activity unless the department determines that subdivisions (a) and (b) of this subrule are infeasible and impractical.
  - (d) The department shall require that mitigation be of a similar ecological type as the impacted wetland where feasible and practical.
  - (e) If the replacement wetland is of a similar ecological type as the impacted wetland, then the department shall require that the ratio of acres of wetland mitigation provided for each acre of permitted wetland loss shall be as follows:
    - (i) Restoration or creation of 5.0 acres of mitigation for 1.0 acre of permitted impact on wetland types that are rare or imperiled on a statewide basis.
    - (ii) Restoration or creation of 2.0 acres of mitigation for 1.0 acre of permitted impact on forested wetland types, coastal wetlands not included under (i) of this subdivision, and wetlands that border upon inland lakes.
    - (iii) Restoration or creation of 1.5 acres of mitigation for 1.0 acre of permitted impact on all other wetland types.
    - (iv) 10 acres of mitigation for 1.0 acre of impact in situations where the mitigation is in the form of preservation of existing wetland as defined in subrule (4) of this rule.
  - (f) The department may adjust the ratios prescribed by this rule as follows:



- (i) The ratio may be increased if the replacement wetland is of a different ecological type than the impacted wetland.
- (ii) If the department determines that an adjustment would be beneficial to the wetland resources due to factors specific to the mitigation site or the site of the proposed activity, then the department may increase or decrease the number of acres of mitigation to be provided by no more than 20 percent. This shall not limit the amount which a ratio may be increased under subdivision (f)(i) of this subrule.
- (g) The mitigation shall give consideration to replacement of the predominant wetland benefits lost within the impacted wetland.
- (h) The department shall double the required ratios if a permit is issued for an application accepted under section 30306(5) of the act.
- (i) The department shall determine mitigation ratios for wetland dependent activities on a site-specific basis.
- (8) Except where mitigation is to occur on state or federally owned property or where the mitigation is to occur in the same municipality where the project is proposed, the department shall give notice to the municipality where the proposed mitigation site is located and shall provide an opportunity to comment in writing to the department on the proposed mitigation plan before a mitigation plan is approved by the department.
- (9) An applicant shall complete mitigation activities before initiating other permitted activities, unless a concurrent schedule is agreed upon between the department and the applicant, and an adequate financial assurance mechanism is provided by the applicant.
- (10) The department may require financial assurances to ensure that mitigation is accomplished as specified.
- (11) An applicant shall protect the mitigation area by a permanent conservation easement or similar instrument that provides for the permanent protection of the natural resource functions and values of the mitigation site, unless the department determines that such controls are impractical to impose in conjunction with mitigation that was undertaken as part of state funded response activity under Act No. 451 of the Public Acts of 1994, as amended.
- (12) An applicant, with the approval of the department, may provide all or a portion of the mitigation through the acquisition of approved credits from a wetland mitigation bank established under R 281.951 et seq. One credit shall be utilized for each acre of mitigation required under subrule (7) of this rule.



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Administrative Rules

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**DEPARTMENT OF TRANSPORTATION**  
**BUREAU OF URBAN AND PUBLIC TRANSPORTATION**  
**COMPREHENSIVE TRANSPORTATION FUND**

Filed with the Secretary of State on April 25, 2000  
These rules take effect 15 days after filing with the Secretary of State

(By authority conferred on the department of transportation by sections 10b and 10g of Act No. 51 of the Public Acts of 1951, as amended, and section 63 of Act No. 306 of the Public Acts of 1969, as amended, being §§247.660b, 247.660g, and 24.263 of the Michigan Compiled Laws)

R 247.801 to R 247.814 Rescinded by R 247.4108.

**PART 1. GENERAL PROVISIONS**

**R 247.4101 Definitions.**

Rule 101. (1) As used in these rules:

- (a) "Accessibility plan" means the vehicle accessibility plan that is required by the accessibility sections of the act.
- (b) "Accessible vehicles" means lift or ramp equipped vehicles.
- (c) "Act" means sections 10(1), 10b to 10e, 10g, 10h, 10j, 10n, 14(5), and 18b(4) of Act No. 51 of the Public Acts of 1951, as amended, being §§247.660(1), 247.660b to 247.660e, 247.660g, 247.660h, 247.660j, 247.660n, 247.664(5), and 247.668b(4) of the Michigan Compiled Laws.
- (d) "Applicant" means any 1 of the following:
  - (i) A local public transportation provider, which is an eligible authority or eligible governmental agency as defined by the act.
  - (ii) An intercity passenger carrier, which is defined as a person, corporation, or other entity that is authorized by federal law or pursuant to Act No. 432 of the Public Acts of 1982, as amended, being §474.101 et seq. of the Michigan Compiled Laws, to transport passengers for hire and that may also transport other items.
  - (iii) A port authority as defined by Act No. 639 of the Public Acts of 1978, as amended, being §120.101 et seq. of the Michigan Compiled Laws.
  - (iv) An intercity freight carrier, which is defined as a person, corporation, or other entity identified in Act No. 295 of the Public Acts of 1976, as amended, being §474.51 et seq. of the Michigan Compiled Laws, that would establish, improve, or support facilities or services for intercity freight transportation purposes.
  - (v) Other eligible entities included in the general functions of the state transportation department section of the act.
- (e) "Application instructions" means the document which is issued by the department to local public transportation and intercity passenger transportation applicants and which describes the information an applicant must submit to the department to participate in the state transportation program in the following state fiscal year
- (f) "Commission" means the Michigan state transportation commission or its successor.
- (g) "Department" means the Michigan department of transportation or its successor.
- (h) "Director" means the director of the department or a person who is designated to act as the director.
- (i) "Expand" means to provide for new facilities or new services.



- (j) "FTA" means the United States department of transportation federal transit administration or its successor.
- (k) "Improve" means to enhance existing facilities.
- (l) "Local public transportation" means services, facilities, and equipment, including local bus service, water vehicle services, and local passenger rail services, and which are operated by an eligible authority or an eligible governmental agency as established in R 247.4103.
- (m) "Persons who have disabilities" means an individual who has a physical or mental impairment that substantially limits one or more of the major life activities of such individual, a record of such an impairment, or being regarded as having such an impairment.
- (n) "Port authority operating budget" means the expenses identified in Act No. 639 of the Public Acts of 1978, as amended.
- (o) "Preserve" means to maintain the current status of existing facilities, excluding routine maintenance expenses.
- (p) "Project" means an activity which is funded or to be funded from the comprehensive transportation fund or from the proceeds of bonds and which is budgeted and managed as a separate entity.
- (q) "Public" means all persons, regardless of age, sex, color, race, creed, national origin, or persons who have disabilities.
- (r) "Public notice" means an advertisement that is placed in at least 1 newspaper of general circulation which serves the area affected by the program.
- (s) "Recipient" means an applicant as defined in subdivision (d) of this subrule.
- (t) "Rehabilitation" means the labor, equipment, and materials that are necessary to repair or improve and extend the useful life of public transportation vehicles, equipment, or facilities for specified rehabilitation projects.
- (2) The terms defined in the act have the same meanings when used in these rules.

**R 247.4102 Local public transportation and intercity passenger transportation financial assistance programs; submittal and approval process.**

- Rule 102. (1) The department shall make application instructions available to all prospective local public transportation and intercity passenger transportation applicants and other interested parties. The application instructions shall contain the items required by the act.
- (2) The department shall update the application instructions each year. The department may issue amended application instructions based upon programmatic or funding changes.
- (3) A local public transportation and intercity passenger transportation applicant shall file an application with the department. An application shall contain all of the information required in the application instructions.
- (4) A local public transportation and intercity passenger transportation applicant shall give public notice of its intent to apply for comprehensive transportation funds according to the act. A local public transportation and intercity passenger transportation applicant shall transmit all comments it receives to the department. The public notice shall include all of the following information:
- (a) The amount of funding requested.
  - (b) The operating and capital program that the local public transportation and intercity passenger transportation applicant proposes to undertake with the funds.
  - (c) The location where the application may be reviewed.
- (5) The department shall review the applications and transmit comments to each local public transportation and intercity passenger transportation applicant.
- (6) Each local public transportation and intercity passenger transportation applicant shall provide any additional information that is requested and responses that are related to subrule (5) of this rule.
- (7) The department shall approve, modify, or reject all or any portion of an application by written notification to the local public transportation and intercity passenger transportation applicant setting forth its reasons for approval, modification, or rejection. The applicant may appeal any approval, modification or rejection of the application to an appeals officer as appointed by the director of the department. The department may modify or reject all or any portion of a local transportation or intercity passenger program if any 1 of the following situations occurs:



- (a) A local public transportation and intercity passenger transportation applicant fails to submit an application as outlined by the application instructions provided under subrule (1) of this rule and application sections of the act or fails to comply with the requirements prescribed in the act.
- (b) The total estimated revenues available for comprehensive transportation fund programs are exceeded by the sum of all funding that is requested in the applications received for the state fiscal year.
- (c) The department determines that a proposed project requires further justification.
- (d) The eligible authority or eligible governmental agency has failed to develop and implement plans, programs, and services, or use appropriate equipment, to provide public transportation for the elderly and persons who have disabilities as set forth in the provisions of R 247.4201 to R 247.4203.
- (8) A local public transportation and intercity passenger transportation applicant shall notify the department of a proposed change in an initial or amendatory application for federal funds that would require an increase or decrease of the state financial commitment.
- (9) A local public transportation and intercity passenger transportation applicant shall provide the department with a copy of any federal application for capital or operating assistance at the time an initial or amendatory application is filed with the federal government.
- (10) The department may administratively fund the first 3 years of new services using the funding limits and provisions established in the operating grants to eligible authorities and eligible governmental agencies section of the act.

**R 247.4103 Eligibility; documentation required.**

Rule 103. To establish eligibility, an applicant shall submit documentation, as applicable, to the department as follows:

- (a) A local public transportation applicant shall submit documentation under R 247.4104 and both of the following provisions:
  - (i) Documentation that the applicant or its designated service provider is legally furnishing, or has the legal capacity to furnish, public transportation services in the area.
  - (ii) Documentation that the applicant has been established according to state law.
- (b) A local public transportation applicant that has previously submitted the materials in subdivision (a) of this rule shall certify annually, in the resolution of intent required by R 247.4104, that changes in eligibility documentation have not occurred during the past state fiscal year. Any change shall be submitted to the department as part of the application required under R 247.4102.
- (c) An intercity passenger carrier applicant shall submit both of the following:
  - (i) Documentation that the applicant is legally furnishing, or has the legal capacity to furnish, public transportation services.
  - (ii) A company letter signed by an authorized company representative that names an official representative of the applicant for all public transportation matters who is authorized to provide information that is required by the commission or department for its administration of the act.
- (d) An intercity freight carrier applicant shall submit the name of an official representative of the applicant who is authorized to provide information that is required by the commission or department for its administration of the act.
- (e) A port authority applicant shall submit all of the following documentation and information:
  - (i) Documentation that the applicant has been created under Act No. 639 of the Public Acts of 1978, as amended, being §120.101 et seq. of the Michigan Compiled Laws.
  - (ii) Adopted bylaws and articles of incorporation that indicate the specific duties, functions, and powers of the applicant.
  - (iii) The name of an official representative of the applicant who is authorized to provide information that is required by the commission or department for its administration of the act.

**R 247.4104 Resolution of intent.**

Rule 104. A local public transportation applicant shall annually enact a resolution of intent as described in the application instructions to participate in the comprehensive transportation fund. The resolution shall provide for all of the following:

- (a) Indicate that the budget for the local transportation program is balanced and specify the sources and amount of estimated revenues that support the proposed expenditures.



- (b) Name an official representative of the applicant for all public transportation matters who is authorized to provide such information as deemed necessary by the commission or department for its administration of the act.
- (c) Certify that changes in eligibility documentation have not occurred during the past state fiscal year.

**R 247.4105 Eligible and ineligible expenses for local public transportation and intercity passenger transportation; determination of distribution of comprehensive transportation funds to intercity passenger carriers.**

Rule 105. (1) Eligible and ineligible expense and revenue definitions for local public transportation operating assistance or water vehicle operating assistance that are funded under the act shall be annually included in the annual application instructions provided by the department. The expense and revenue estimates submitted and agreed to in the approved annual application from the eligible authorities and eligible governmental agencies shall be in agreement with the annual application instructions.

(2) Eligible and ineligible expenses for intercity passenger transportation operating assistance that are funded under the act shall be as agreed upon in the executed contractual agreement.

(3) Eligible capital costs, defined as any unit that has a cost of more than \$300.00 and a useful life of more than 1 year, that are funded under the act and bond funds for local public transportation projects and for intercity passenger carrier projects include all of the following:

- (a) Acquisition.
  - (b) Purchase.
  - (c) Lease or lease-purchase.
  - (d) Construction.
  - (e) Rehabilitation.
  - (f) Operating expenses allowed by the federal government in an executed federal capital contract
- (4) All programs shall have project costs defined in the contractual agreement.
- (5) An applicant may submit any operating or capital cost that is not specified in the application instructions to the department, in writing, for a determination as to eligibility. The department shall notify all recipients, in writing, upon the issuance of a determination of eligibility and specify the effective date.
- (6) A determination of eligibility is not funding approval.
- (7) In determining the distribution of comprehensive transportation funds to be made to intercity passenger carriers under the act, the department shall award operating assistance projects by a competitive or negotiated bid process and shall award capital projects by application.

**R 247.4106 Eligible and ineligible expenses for intercity freight projects and port authority operating budgets.**

Rule 106. (1) Eligible capital costs for rail freight projects that are funded under the act and bond funds are as follows:

- (a) Activities to preserve, improve, or expand state-owned facilities.
  - (b) Activities or loans to improve or expand privately owned freight facilities.
  - (c) Activities, loans, or grants to improve or expand freight facilities to better serve economic development within Michigan.
- (2) Eligible costs for port authority operating budgets are as defined in R 247.4101(l).
- (3) A determination of eligibility is not funding approval.
- (4) An applicant may submit any operating or capital cost that is not specified in subrules (1) through (3) of this rule to the department, in writing, for a determination as to eligibility. The determination shall take effect upon receipt of notification by the recipients, unless the determination is appealed to the commission.

**R 247.4107 Local public transportation cost allocation plan.**

Rule 107. (1) A recipient shall submit, to the department for its approval, a cost allocation plan for general and administrative overhead costs if both of the following conditions apply:

- (a) The local public transportation recipient receives funds for eligible operating expenses under the act.
- (b) One of the following conditions applies:
  - (i) A recipient has joint costs with a unit or units of government or has employees who simultaneously work for other governmental agencies.



- (ii) A recipient has multiple funding sources that require separate accounting.
- (iii) A recipient provides services to outside agencies, including transit agencies.
- (2) Specialized services agencies, as described in the act, are exempt from the provisions of this rule.
- (3) A recipient shall submit the cost allocation plan in narrative form. The cost allocation plan shall describe the methodology used.
- (4) A recipient shall submit an amended plan to the department within 60 days after any change in conditions as described in subrule (1)(b) of this rule.
- (5) A recipient's independent certified public accountant shall note in the recipient's annual financial and compliance audit whether the actual cost allocation is in compliance with the cost allocation plan that was submitted to the department.

**R 247.4108 Rescission.**

Rule 108. R 247.801 to R 247.814 of the Michigan Administrative Code, appearing on pages 721 to 727 of the 1979 Michigan Administrative Code, are rescinded.

**PART 2. ACCESSIBILITY PLAN**

**R 247.4201 Accessibility plan; content; amendment.**

- Rule 201. (1) Each applicant seeking comprehensive transportation funds to purchase, lease, or rent demand-actuated vehicles shall prepare and submit an accessibility plan to the department as a part of its application.
- (2) An accessibility plan shall include all of the following information and items:
    - (a) The number of demand-actuated vehicles that are presently in service, including loaner vehicles, that were purchased with comprehensive transportation fund monies, and the number of demand-actuated accessible vehicles.
    - (b) The number of demand-actuated vehicles in the anticipated fleet, including the number of demand-actuated accessible vehicles.
    - (c) The current definitions of the elderly and persons who have disabilities that are used by the applicant, and the total number of the elderly and persons who have disabilities in the service area.
    - (d) The current fare structure that is in use for the elderly, persons who have disabilities, and the rest of the general public for both fixed schedule and fixed route service, if applicable, and for demand-actuated public transportation service.
    - (e) A narrative description of the process that the applicant used to develop the accessibility plan. The narrative shall include a description of the local advisory council involvement in the development and review of the accessibility plan.
    - (f) A map and narrative description of the service area, as of the plan submission date, for fixed schedule and fixed route service, if applicable, and for demand-actuated public transportation service.
    - (g) The current service schedule, including hours per day and days of the week, for both fixed schedule and fixed route service, if applicable, and for demand-actuated public transportation service.
    - (h) A narrative description of how the information required in subrule (2)(g) of this rule is made available in alternate formats to persons who have disabilities.
    - (i) Whether transit vehicles are available for use during hours or days other than regular service hours or days and confirmation that accessible transit vehicles are available for use by the elderly and persons who have disabilities to the same extent as the general public.
    - (j) Whether the elderly, persons who have disabilities, and the general public must make an advance request to obtain demand-actuated public transportation service and the advance request time period.
    - (k) A narrative description of constraints on capacity and restrictions on trip purpose.
    - (l) A narrative summarization for the number of demand-actuated vehicles requested and, within the total number requested, the number of accessible vehicles, including the applicant's reasons for the number of accessible vehicles.
    - (m) Comments of the local advisory council.
    - (n) The applicant's response to local advisory council comments.
    - (o) The official transmittal letter from the applicant to the department.



(3) Each applicant shall prepare and submit an amendment with their annual application for funding. An amendment is also required when proposed changes occur after the application has been submitted. These include material changes in the plan contents made under subrule (2) of this rule. Amendments shall be submitted on a form provided in the annual application instructions which includes the Americans with Disabilities Act of 1990 certification. An amendment is not necessary for changes regarding department loaned vehicles.

(4) All plan amendments shall include the documents that are required under subrule (2)(m) and (n) of this rule as well as a written description of the changes from a previously approved accessibility plan.

#### **R 247.4202 Accessibility plan local advisory council composition.**

Rule 202. (1) A local advisory council shall be composed and structured in such a manner so as to facilitate an independent objective assessment of the accessibility plan by persons in the service area.

(2) An applicant shall have a local advisory council established and appointed. The council shall consist of not less than 3 members.

(3) Local advisory council members shall not be employees of the applicant and shall not be members of the applicant's executive committee or governing board.

(4) Each applicant shall include, with the accessibility plan, a list of council members and their affiliations. The applicant shall identify the members who are persons who have disabilities, are 65 years of age or older, or are representatives of persons who have disabilities or are 65 years of age or older.

(5) Each applicant shall ensure that 50% of the membership will represent persons who are 65 years of age or older and persons who have disabilities within the service area and, jointly with the area agency on aging, shall approve at least 1 member, or the equivalent of 12% of the membership, of the local advisory council. The applicant shall ensure that the membership will include people who have diverse disabilities and the elderly who are users of public transportation.

#### **R 247.4203 Accessibility plan review and approval process.**

Rule 203. The department shall process an accessibility plan in accordance with both of the following procedures:

(a) The department shall, within 60 days after submission of the accessibility plan, do either of the following:

(i) Approve the accessibility plan as submitted or amended.

(ii) Reject the accessibility plan as submitted and make recommendations to the applicant for modifications.

(b) A plan that is not approved or rejected by the department within 60 days after submission is considered approved as submitted.

### **PART 3. REPORTING AND COMPLIANCE REQUIREMENTS**

#### **R 247.4301 Financial and compliance audits.**

Rule 301. (1) A recipient of funds under the local public transportation operating grants section and the new services section of the act shall provide, to the department, an annual financial and compliance audit report and management letter within 120 calendar days from the end of the local fiscal year. The report shall include a response certified by an independent certified public accountant in accordance with the department's and the Michigan department of treasury's audit guide. The Department may grant an extension of up to 60 days upon receipt of a written request.

(2) Failure to comply with the audit section of the act may result in the withholding of local public transportation operating grants and new services grants under the act as required under the withholding section of the act and R 247.4303.

(3) The department shall audit a recipient of funds under sections other than the local public transportation operating grants and new services grants sections of the act in accordance with the contract entered into by the recipient and the department.

#### **R 247.4302 Local public transportation progress report.**

Rule 302. (1) Not later than 40 calendar days after the end of each state fiscal year, a recipient of funds under the local public transportation operating grants and new services sections of the act shall file an annual



local public transportation progress report to enable a preliminary closeout of the statutory distribution and the new services distribution after the third year.

(2) Not later than 40 days after the end of each fiscal quarter, a local public transportation recipient of operating grants and new services grants under the act shall file a quarterly local transportation progress report.

(3) Failure to comply with the quarterly report and the progress report sections of the act may result in the withholding of local public transportation operating grants and new services grants under the act.

**R 247.4303 Procedures for adjusting or withholding funds.**

Rule 303. (1) The department may adjust or withhold project funds that are awarded under the act or may adjust project quantities or alter the project scope under any of the following circumstances:

- (a) Federal funds that are necessary for the completion of the project are not awarded to the recipient by the end of the following fiscal year in which the project was approved.
- (b) The actual comprehensive transportation fund revenues are below the estimated comprehensive transportation fund revenues on which a project award was made.
- (c) The actual cost of the project varies from the estimated costs on which a project award was made.
- (d) Revisions to the local transportation programs are requested by a recipient.
- (e) The scope of the project is reduced.
- (f) A recipient fails to comply with the act.
- (g) A recipient fails to maintain project equipment pursuant to the contract.

(2) The department shall notify a recipient, by mail, of a department-initiated action to withhold funds for noncompliance. The notice shall clearly set forth the reasons for the proposed action. The recipient shall have 30 days from the date of issuance of the notice to respond or undertake corrective action. The department may grant an extension if the recipient files a written appeal with the department.

(3) If, within 30 days after the date that the notice of intent to withhold was issued, the recipient has not corrected the reason for the withholding and notified the department of that correction, has not been granted an extension, or has not appealed the action, in writing, to the department and been granted a waiver, then the department shall send the applicant, by certified mail, a notification that funds are being withheld. Withholding of funds shall occur automatically after the notice of withholding is mailed.

**R 247.4304 Contractual agreements generally.**

Rule 304. (1) A contractual agreement is required for authorized projects that are funded under the comprehensive transportation fund and bond fund sections of the act.

(2) A contractual agreement is not required for authorized local public transportation operating assistance grants under the act.

**R 247.4305 Third-party contracts; applicability.**

Rule 305. (1) A recipient who has not been certified under R 247.4306 and who receives comprehensive transportation funds for projects funded under the act or supplemental appropriations shall comply with the provisions of this rule.

(2) A recipient whose grant is either partially or 100% state-funded and who is certified under R 247.4306 is not required to comply with the provisions of this rule.

(3) Third-party contract processing shall be consistent with commission policy. Approval, when required by commission policy, shall take place before contract execution.

(4) Departmental contractual agreements shall require that a recipient submit any documentation which is related to third-party procurement to the department for information purposes at the request of the department.

**R 247.4306 Third-party contracts; federal involvement.**

Rule 306. (1) A recipient that is considered certified by FTA will be considered certified by the department. If a recipient is decertified by FTA, then the recipient shall immediately notify the department.

(2) The department is responsible for certifications for nonurbanized recipients who utilize department procedures.



(3) The department may request third-party contract documents that are prepared under subrule (1) or (2) of this rule for informational purposes.

(4) A recipient who is unable to, or who elects not to, comply with the provisions of subrule (1) or (2) of this rule and a recipient who has a contractual requirement of department approval shall comply with the provisions of R 247.4305.

**R 247.4307 Declaratory rulings.**

Rule 307. (1) The department, upon the written request of an interested person, may issue a declaratory ruling as to the applicability of the act or a rule to an actual statement of facts if the person submits a clear and concise statement of the actual statement of facts to the department. An interested person may submit a brief or other reference to legal authorities upon which the person relies for determining the applicability of the act or a rule to the statement of facts.

(2) If the department determines it will issue a declaratory ruling, then it shall furnish the person with a written statement to that effect and shall set forth the time in which it will issue the ruling.

(3) A ruling shall repeat the actual statement of facts and the legal authority on which the department relies for the ruling it makes. A ruling, once issued, is binding on the department, and the department shall not change the ruling retroactively, but may change a ruling prospectively.



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Administrative Rules

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**DEPARTMENT OF TREASURY**  
**BUREAU OF STATE LOTTERY**  
**CRANE GAMES**

Filed with the Secretary of State on May 12, 2000.  
These rules take effect 15 days after filing with the Secretary of State

(By authority conferred on the commissioner of state lottery by section 303 of Act No. 328 of the Public Acts of 1931, as amended, being § 750.303 of the Michigan Compiled Laws)

R 432.401, R 432.402, R 432.403, R 42.404, R 432.405, R 432.406, R 432.407, R 42.408, and R 432.409 of the Code are rescinded as follows:

**R 432.401 Rescinded.**

**R 432.402 Rescinded.**

**R 432.403 Rescinded.**

**R 432.404 Rescinded.**

**R 432.405 Rescinded.**

**R 432.406 Rescinded.**

**R 432.407 Rescinded.**

**R 432.408 Rescinded.**

**R 432.409 Rescinded.**



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Administrative Rules

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**DEPARTMENT OF TREASURY**

**STATE ASSESSOR'S BOARD**

**GENERAL RULES**

Filed with the Secretary of State on April 24, 2000

These rules take effect 15 days after filing with the Secretary of State

(By authority conferred on the state assessor's board by section 10d of 1893 PA 206, MCL 211.10d, and section 33 of 1969 PA 306, MCL 24.233)

R 211.441 of the Michigan Administrative Code is amended as follows:

**PART 3. RATING AND CERTIFICATION**

**R 211.441 Certification of equalization directors.**

Rule 41. An equalization director shall qualify for a certification at the level of certification assigned to his or her county by the board under R 211.431(1). If a certified assessing officer accepts appointment as a county director of equalization, and if the officer is certified at a level below the certification level required by the state assessor's board for the county, then the state assessor's board shall notify the officer that he or she is not certified at the proper level. The board may revoke an assessing officer's certification in assessment administration if the officer fails to become certified at the proper level.



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**PROPOSED ADMINISTRATIVE RULES,  
NOTICES OF PUBLIC HEARINGS**

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PROPOSED ADMINISTRATIVE RULES

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**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**SURFACE WATER QUALITY DIVISION**  
**WATER RESOURCE PROTECTION**

Filed with the Secretary of State on \_\_\_\_\_  
These rules take effect 15 days after filing with the Secretary of State

(By authority conferred on the department of environmental quality by sections 3103 and 3106 of Act No. 451 of the Public Acts of 1994, as amended, being §§324.3103 and 324.3106 of the Michigan Compiled Laws)

**PART 30. Water Quality Trading**

**R 323.3001 Definitions.**

Rule 1. As used in this part:

- (a) "Act" means Part 31 of Act No. 451 of the Public Acts of 1994, as amended, being §§324.3101 to 324.3199 of the Michigan Compiled Laws.
- (b) "Administrator" means the administrator of the United States environmental protection agency.
- (c) "Applicable requirement" means any of the following:
  - (i) A standard of performance, management practice, effluent limitation, total maximum daily load, recordkeeping, monitoring, or reporting requirement established by the federal water pollution control act, as amended, 33 U.S.C. §1251 et seq., the C.F.R. or Part 31 of Act No. 451 of the Public Acts of 1994, as amended, being §§324.3101 to 324.3119 of Michigan Compiled Laws and rules promulgated under the act.
  - (ii) A permit issued or order entered by the department.
  - (iii) A consent judgement entered in, or an order issued by, a court of competent jurisdiction.
  - (iv) A watershed management plan approved by the department pursuant to this part.
  - (v) A plan developed and funded under a grant administered by the department under section 319 of the federal clean water act.
- (d) "Attainment area" means a waterbody, a receiving water, or watershed, where water quality standards are being met.
- (e) "Banked credits" means credits that are generated during a different time period than that in which they are used or traded and that have been registered under this part.
- (f) "Baseline" means the pollutant-specific point source discharge or nonpoint source loading level below which reductions must be made to generate a credit.
- (g) "Best management practices" means structural, vegetative, or managerial practices that reduce or prevent the detachment, transport, and delivery of point and nonpoint source pollutants to the surface waters.
- (h) "Calendar year" means the time period from January 1 until December 31 inclusive for a given year.
- (i) "Cap" means the combined total allowable pollutant-specific point source discharges and nonpoint source loadings established by a total maximum daily load or specified in a watershed management plan which has been approved under this part.
- (j) "Clean water act" means the federal water pollution control act, as amended, being 33 U.S.C. §1251 et. seq.
- (k) "Closed trading" means the exchange of credits among or between point and nonpoint sources in a watershed or receiving water for which a pollutant-specific cap and allocations have been established to achieve or maintain a water quality standard or to implement a watershed management plan approved under this part.



- (l) "Contemporaneous" means that the generation of credits occurs during the same calendar year or other specific time period during which the credits are used to comply with an applicable requirement.
- (m) "Credit" means the pollutant-specific point source discharge reduction or nonpoint source load reduction, minus the water quality contribution, that is generated and entered into the water quality trading registry and which may be used or traded under this part.
- (n) "Cross-pollutant trading" means the use of discharge or load reductions generated for one pollutant to be used to compensate for an increase in the discharge or loading of a different pollutant.
- (o) "Department" means the Michigan department of environmental quality.
- (p) "Directionality" means an upstream discharge or load reduction to compensate for a downstream use of credits.
- (q) "Director" means the director of the department of environmental quality.
- (r) "Discharge reduction" means the difference between the baseline and the reduced discharge level that constitutes the surplus pollutant-specific reduction generated by a point source.
- (s) "Discount factor" means a trading ratio different than 1:1 that is applied to different sources or different pollutants to provide equivalency or address uncertainty.
- (t) "Intra-plant trading" means the generation and use of credits between multiple outfalls discharging into the same receiving water from a single facility that has been issued a national pollutant discharge elimination system permit.
- (u) "Lakewide management plan" means a plan developed and implemented to address critical pollutants pursuant to the Great Lakes water quality agreement of 1978, as amended.
- (v) "Load allocation" means the portion of a receiving water's loading capacity that is attributed to a nonpoint source or group of nonpoint sources under a total daily maximum load or a watershed management plan approved under this part.
- (w) "Loading capacity" means the greatest amount of pollutant loading that a receiving water can receive without violating water quality standards.
- (x) "Load reduction" means the difference between the baseline and the reduced loading level that constitutes the surplus pollutant-specific reduction generated by a nonpoint source.
- (y) "Nonpoint source" means a source of pollutant loading to the surface waters of the state other than a source defined as a point source.
- (z) "Nutrient trading" means the generation and use of total phosphorus or total nitrogen credits among and between point and nonpoint sources.
- (aa) "Open trading" means the exchange of credits among or between point and nonpoint sources in a watershed or receiving water for which a total maximum daily load or a pollutant-specific cap and allocations have not been established by an applicable requirement.
- (bb) "Person" means an individual, partnership, association, corporation, industry, municipality, state agency, or interstate body.
- (cc) "Point source" means a discharge that is released to the surface waters of the state by a discernible, confined, and discrete conveyance, including any of the following from which wastewater is or may be discharged:
- (i) A pipe.
  - (ii) A ditch.
  - (iii) A channel.
  - (iv) A tunnel.
  - (v) A conduit.
  - (vi) A well.
  - (vii) A discrete fissure.
  - (viii) A container.
  - (ix) A concentrated animal feeding operation.
  - (x) A vessel or other floating craft.
- (dd) "Pollution prevention" means source reduction and environmentally sound on-site or off-site reuse or recycling. Pollution prevention includes equipment or technology modifications, substitution of raw materials, process or procedure modifications and improvements in housekeeping, maintenance, or inventory control. Pollution prevention does not include a practice applied after a waste or wastewater has been



generated and does not promote, include, or require incineration. Waste treatment, control, management, or disposal are not considered pollution prevention.

(ee) “Quantifiable” means that the amount, rate, and characteristics of a discharge reduction or increase can be determined or measured through an accurate, reliable, and replicable method, procedure, or set of calculations established by an applicable requirement or approved by the department or the administrator.

(ff) “Real” means a change that results in a point source discharge or nonpoint source load reduction.

(gg) “Reasonable further progress” means incremental point source discharge or nonpoint source load reductions to achieve water quality standards or to implement a total maximum daily load established pursuant to section 303(d) of the federal clean water act.

“Reduced discharge level” means the real, surplus, and quantifiable pollutant-specific discharge reduction achieved by a point source.

“Reduced loading level” means the real, surplus, and quantifiable pollutant-specific load reduction that is achieved by a nonpoint source.

“Remedial action plan” means a plan developed and implemented to address an area of concern pursuant to the Great Lakes water quality agreement of 1978, as amended.

(kk) “Responsible individual” means for the purposes of signing and certifying as to the truth, accuracy, and completeness of a notice and certification required by this part any of the following:

(i) For a corporation, then a president, secretary, treasurer, or vice-president in charge of a principle business function, or any other person who performs similar policy or decision making functions for the corporation, or an authorized representative of that person if the representative is responsible for the overall operation of 1 or more manufacturing, production, or operating facilities.

(ii) For a partnership or sole proprietorship, then a general partner or the proprietor.

(iii) For a county or municipality or a state, federal, or other public agency, then either a principal executive officer or ranking elected official. For this purpose, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(ll) “Source reduction” means any practice which reduces either of the following:

(i) The amount of any hazardous substance, pollutant, or contaminant entering any wastestream or otherwise released into the environment before recycling, treatment, or disposal.

(ii) Hazards to public health and environment associated with the release of a substance, pollutant, or contaminant.

(mm) “Surface waters of the state” means all of the following, but does not include drainage ways and ponds used solely for wastewater conveyance, treatment, or control:

(i) The Great Lakes and their connecting waters.

(ii) All inland lakes.

(iii) Rivers.

(iv) Streams.

(v) Impoundments.

(vi) Open drains.

(vii) Other surface bodies of water within the confines of the state.

(nn) “Surplus” means a point source discharge or nonpoint source load reduction greater than that required by an applicable requirement.

(oo) “Total maximum daily load” means the maximum amount of a specific pollutant that a waterbody can assimilate and still meet applicable water quality standards and which has been established pursuant to section 303(d) of the federal clean water act, being 33 U.S.C. §1313 or R 323.1207 of the Michigan Administrative Code.

(pp) “Trade” means the purchase, sale, conveyance, or other transfer of a registered credit from one person or source to another person or source under this part.

(qq) “Trading activities” means all requirements established and all activities regulated by this part without limitation.

(rr) “True-up” means to correct or make whole an insufficient quantity of discharge reductions and credits that are generated and registered, used or traded.



(ss) "Unregulated source" means any point or nonpoint source for which performance standards, effluent limitations, work practices, and monitoring requirements have not been established by an applicable requirement.

(tt) "Use" means the application of a credit to comply with a water quality-based effluent limitation or other applicable requirement or the retirement of a credit to provide a water quality benefit.

(uu) "Water quality-based effluent limitation" means a discharge limit developed for a national pollutant discharge elimination system permit that will ensure that the level of water quality to be achieved by the point source complies with all applicable water quality standards.

(vv) "Water quality standards" means the Part 4. water quality standards developed under Part 31 of Act No. 451 of the Public Acts of 1994, as amended, being §§324.3101 to 324.3119 of the Michigan Compiled Laws.

(ww) "Wasteload allocation" means the pollutant-specific allocation for an individual point source, which ensures that the level of water quality to be achieved by the point source complies with all applicable water quality standards.

(xx) "Watershed" means an area of the land that drains to a common lake, pond, river, stream, or other surface waters of the state delineated and designated as a trading area under this part.

(yy) "Watershed management plan" means a comprehensive water resource plan approved by the department under this part and that includes a cap, point and nonpoint source allocations, responsible parties, management strategies to improve water quality or achieve and maintain water quality standards in a specific receiving water or watershed.

#### **R 323.3002 Purpose.**

Rule 2. (1) The purpose of this part is to establish a voluntary statewide water quality trading program which has all the following goals:

- (a) Improving water quality and optimizing the costs of achieving and maintaining water quality standards.
- (b) Creating economic incentives for voluntary nonpoint source load reductions, point source discharge reductions beyond those required by the federal clean water act, 33 U.S.C. §1251 et seq., implementation of pollution prevention programs, wetland restoration, and creation; and, the development of emerging pollution control technologies.
- (c) Facilitating the implementation of total maximum daily loads, urban stormwater control programs, and nonpoint source management practices required under the federal clean water act.
- (d) Providing incentives for the development of new and more accurate and reliable quantification protocols and procedures.
- (e) Providing greater flexibility through community-based, non-regulatory, and performance-driven watershed management planning.

#### **R 323.3003 Applicability.**

Rule 3. (1) This part shall apply to all persons and sources that participate in water quality trading.

(2) This part shall apply to the generation, registration, use, banking, and trading of credits and all trading activities that occur under this part.

#### **R 232.3004 General Requirements.**

Rule 4. (1) The generation, use, and trading of credits among and between point and nonpoint sources shall occur within the same receiving water or watershed designated under this part.

(2) Credits shall be generated before or contemporaneously with the time they are used or traded.

The generation, use, and trading of credits and all trading activities approved under this part shall be consistent with the following if applicable:

- (a) A total maximum daily load established pursuant to section 303(d) of the federal clean water act, 33 U.S.C. §1313.
- (b) A remedial action plan.
- (c) A lakewide management plan.
- (d) A watershed management plan approved by the department under this part.
- (4) Credits used to comply with a seasonal effluent limitation established to achieve or maintain water quality standards shall be generated during the time period for which the seasonal effluent limitation applies.

**R 323.3005 Prohibitions and restrictions.**

Rule 5. (1) The use of credits that would cause a violation of water quality standards is prohibited.

(2) Credits generated in one watershed shall not be used or traded in a different watershed. This rule shall not prohibit credits generated in a nonattainment area being used in an attainment area within a watershed designated in a watershed management plan approved by the department under this part.

(3) Except for trading activities under a remedial action or lakewide management plan that is designed to achieve virtual elimination of a bioaccumulative chemical of concern and that the department has determined to be consistent with water quality standards, the use of credits to increase the discharge or loading of any bioaccumulative chemical of concern listed below is prohibited:

- (a) Chlordane
- (b) 4,4'-DDD
- (c) 4,4'-DDE
- (d) 4,4'-DDT
- (e) Dieldrin
- (f) Hexachlorobenzene
- (g) Hexachlorobutadiene
- (h) Hexachlorocyclohexanes
- (i) alpha-Hexachlorocyclohexane
- (j) beta-Hexachlorocyclohexane
- (k) delta-Hexachlorocyclohexane
- (l) Lindane
- (m) Mercury
- (n) Mirex
- (o) Octachlorostyrene
- (p) Polychlorinated biphenyls (PCBs)
- (q) Pentachlorobenzene
- (r) Photomirex
- (s) 2,3,7,8-TCDD
- (t) 1,2,3,4-Tetrachlorobenzene
- (u) 1,2,4,5-Tetrachlorobenzene
- (v) Toxaphene

(4) Except as provided under the federal clean water act, the C.F.R., and other types of trades approved by the department and the administrator, credits shall not be used to comply with a technology-based effluent limitation. Nothing in this part shall prohibit the use of credits to achieve reductions required to comply with a technology-based effluent established by federal regulations after the effective date of this part to the extent allowed under the federal regulations.

(5) Nothing in this part shall be construed to obviate the need to obtain a permit or a permit modification required by an applicable requirement.

(6) Nothing in this part shall be construed to prohibit a municipality or regional sewerage authority from developing and implementing its own pretreatment trading program.

**R 323.3006 Eligibility requirements for generation of point source discharge and nonpoint source load reductions and credits.**

Rule 6. (1) For discharge or load reductions to be generated and registered as credits, both of the following conditions shall be met:

- (a) The discharge or load reductions shall be generated after the effective date of this part.
  - (b) The discharge or load reductions shall be real, surplus, and quantifiable.
- (2) Discharge or load reductions to generate credits may be created by, but not limited to, any of the following:
- (a) Installation or modification of water pollution control equipment.
  - (b) Operational changes and the modification of a process or process equipment.
  - (c) Reformulating raw materials or products.
  - (d) Implementation of pollution prevention programs.
  - (e) Implementation of energy conservation programs.



(f) Implementation of early discharge or load reductions before a compliance date specified by an applicable requirement.

Implementation of nonpoint source management practices.

(h) Implementation of storm water controls or management practices.

(i) Restoring or creating and maintaining a wetland.

(j) The installation of equipment or implementation management practices at orphan sites of environmental contamination to control discharges to the waters of the state by a person or party that is not responsible for the contamination or liable for response activities under state and federal regulations.

(k) The installation, operation, and maintenance of drainage projects designed to control storm water as part of a county drain improvement project.

(l) Other pollution controls or management practices approved by the department.

(3) Discharge or load reductions required to achieve compliance with a technology-based effluent limitation established by an applicable requirement shall not be eligible to generate credits under this part.

(4) A source that generates discharge or load reductions and credits to be used or traded shall discharge directly or otherwise be connected to the receiving water or watershed in which the credits are used or traded.

(5) Discharge or load reductions made by a source in violation of a monitoring, recordkeeping, or reporting requirement applicable to the specific pollutant for which the discharge or load reduction has been made shall not be eligible to generate credits under this part.

(6) The implementation of management practices or the installation of control structures required to eliminate the discharge of manure or runoff containing manure or other animal wastes from agricultural operations shall not be eligible to generate credits five years after the effective date of this part, or upon the effective date of an applicable requirement, whichever occurs first.

(7) Generally accepted agricultural management practices required to abate a nuisance complaint referred to the department under the Michigan right to farm act, Act No. 93 of the Public Acts of 1981, as amended, being §§286.471 to 286.474 of the Michigan Compiled Laws, shall not be eligible to generate a discharge reduction credit under this part.

(8) Nonpoint source load reductions which result from implementation of management practices or the installation of control structures under programs administered by the United States department of agriculture, natural resource conservation service, shall be eligible to generate credits in direct proportion to the percent local match and any contribution greater than the local match required under these federal programs.

(9) Nonpoint source load reductions which result from implementation of projects or programs funded by Act 288 of the Public Acts of 1998, being §§324.19601 to 324.19616 of the Michigan Compiled Laws and §319 of the federal clean water act shall not be eligible to generate credits under this part.

(10) Nothing in this subrule shall be construed to prohibit or restrict a municipality from generating credits by installing controls or implementing management practices under publicly funded projects or programs implemented within the same jurisdiction.

**R 323.3007 Nutrient trading; directionality and contemporaneous point source discharge; nonpoint source load reduction generation; credit use.**

Rule 7. (1) Open nutrient trading may occur in an attainment area or other area where a total maximum daily load has not been established and a watershed management plan has not been approved for purposes of trading under this part provided the conditions in either subdivision (a) or (b) of this subrule are met:

(a) There is a contemporaneous upstream discharge or load reduction to compensate for a use of credits to comply with a water quality-based effluent limitation or other applicable requirement.

(b) The source using credits to comply with a water quality-based effluent limitation or other applicable requirement discharges to the same receiving water or watershed either upstream or downstream of the source which generates the credits and both of the following conditions are met:

(i) The generation of credits is contemporaneous with the use of credits.

(ii) The sources which generate and use credits are upstream of the site in the receiving water or watershed for which the applicable water quality-based effluent limitation has been established to meet water quality standards.



(c) The use of credits pursuant to subdivisions (a) and (b) of this subrule shall not be construed to constitute a lowering of water quality pursuant to R 323.1098(8)(k).

**R 323.3008 Nutrient trading in areas for which a total maximum daily load or a watershed management plan has been established.**

Rule 8. (1) Closed nutrient trading may occur within a receiving water or in a watershed where water quality standards are not being met for the pollutant that is being traded provided all of the following conditions are met:

- (a) A total maximum daily load for the nutrient to be traded has been approved by the department and the administrator pursuant to section 303(d) of the federal clean water act, being §33 U.S.C. 1313.
- (b) The point sources and nonpoint sources that generate, use, or trade credits shall be located in the same nonattainment area and included in the inventory upon which the total maximum daily load is based.
- (c) The nutrient cap, point source waste load allocations and nonpoint source load allocations shall constitute the respective baselines for the generation, use, and trading of credits.
- (d) The generation, registration, use, and trading of credits shall be consistent with the total maximum daily load and this part.

(2) Closed nutrient trading may occur within any receiving water or in a watershed for which a watershed management plan has been prepared for the purpose of trading providing all of the following conditions are met:

- (a) The watershed management plan has been approved by the department pursuant to the provisions of R 323.3022.
- (b) The point sources and nonpoint sources that generate, use, and trade credits shall be located in the same receiving water or watershed and included in the inventory upon which the watershed management plan is based.
- (c) The nutrient cap and point source wasteload allocations, and nonpoint source load allocations specified in the watershed management plan to achieve or maintain water quality standards shall constitute the respective baselines for the generation and use of credits.
- (d) The generation, registration, use, and trading of credits shall be consistent with the approved watershed management plan and this part.

**R 323.3009 Other types of trading; use of banked credits; trading of pollutants other than nutrients; intra-plant trading; cross-pollutant trading; trading under a remedial action or lakewide management plan.**

Rule 9. (1) Except for the provisions in R 323.1005(3), nothing in this part shall be construed to prohibit the department from approving other types of water quality-based trades that are not specifically provided for in this part.

(2) The use of banked credits, trading of pollutants other than nutrients, intra-plant trading, cross pollutant trading, trading under a remedial action or lakewide management plan, and any other types of trades shall occur in a manner consistent with all applicable requirements of this part and shall be approved by the department before any such activity occurs.

(3) All trades shall be approved by the department under subrule (2) of this rule and shall be consistent with all the applicable provisions of this part.

(4) The department shall establish restrictions and conditions necessary to assure that trading activities that occur under subrule (2) of this rule are consistent with achieving and maintaining water quality standards. Such restrictions and conditions may include, but are not limited to, the establishment of any of the following:

- (i) Trading ratios, in addition to or different than those specified in this part, to address uncertainty and provide a net water quality benefit.
- (ii) Discount factors, in addition to or different than those specified in this part, to address distance, directionality, toxicity, and equivalence.
- (iii) Monitoring, recordkeeping, and reporting requirements in addition to those established by an applicable requirement.
- (iv) Special permit conditions to specify minimum technology requirements and restrictions on the type and quantity of credits that may be generated, used, or traded under this part.



(5) A person or source seeking to engage in other types of trades under subrule (2) of this rule shall do either of the following:

(i) Demonstrate that social or economic development and the benefits to the area in which the receiving waters are located would be forgone if the use of credits is not allowed in accordance with the provisions of R 323.1098(4).

(ii) Show that the use of credits does not constitute a lowering of water quality pursuant to R 323.1098(8) or (9).

(6) Before approving a trade pursuant to subrule (2) of this rule, the department shall provide public notice and a 30-day public comment period. A public hearing may be held if the department determines there is substantial public interest in the proposed trade. A decision by the department to approve or not approve a proposed trade after the comment period has been completed shall be final unless reviewed by a court of competent jurisdiction.

(7) Other types of trades that are embodied in or affect a national pollutant discharge elimination system permit shall be subject to final approval by the United States environmental protection agency.

#### **R 323.3010 Baselines; general requirements.**

Rule 10. (1) Baselines shall be established by using the most accurate, representative, and reliable process and operational information, flow and monitoring data, discharge and loading data, and records that are available. The baseline and discharge and load reductions shall be calculated using methods and procedures specified by an applicable requirement where they exist.

(2) Unless specified otherwise by an applicable requirement, the baseline for all sources, except permitted stormwater sources for which a numerical effluent limitation has not been established, shall be established by using the information and data representative of the 3-year period before the date that a change is made to generate a discharge or load reduction. A different time period that is more representative of historical operations and provides more accurate and reliable actual discharge or existing loading data may be used if approved by the department.

(3) The baseline for permitted stormwater sources for which a numerical effluent limitation has not been established shall be the pollutant-specific loading achieved through implementation of management practices specified in or approved under a national pollutant discharge elimination system permit at the time a change is made to generate a discharge or load reduction.

(4) Unless specified otherwise by an applicable requirement, baselines for agricultural, industrial, urban, and residential stormwater runoff shall be calculated by using the meteorological information and precipitation data for a 10-year period or the period-of-record, whichever is longer. This information and data shall be obtained from the nearest national weather service station unless a different location or source is approved by the department.

#### **R 323.3011 Baseline for point sources other than stormwater; reduced discharge level; generation of discharge reductions and credits.**

Rule 11. (1) The point source baseline shall be the actual discharge level that complies with the most protective of any of the following:

(a) A water quality-based effluent limitation established by an applicable requirement.

(b) A cap and wasteload allocation specified under a total maximum daily load.

(c) A cap and wasteload allocation specified in a watershed management plan approved by the department under this part.

(d) A cap and wasteload allocation determined by the department to be consistent with water quality standards and specified in a remedial action plan or lakewide management plan.

(2) Margins of safety achieved in practice shall be maintained by using the actual discharge flows and concentrations to calculate the baseline under subrule (3) of this rule.

(3) The point source baseline shall be expressed in the pounds of a specific pollutant discharged per day and calculated by using the following equation:

$$B = F \times C \times K$$

Where:

B = the baseline

F = flow expressed in million gallons per day (MGD)



C = pollutant concentration expressed in milligrams per liter (mg/l)

K = a unit conversion constant of 8.346 liter pounds per gallon milligrams.

(4) The reduced discharge level (RDL) which will result after changes or methods and procedures have been implemented to generate discharge reductions shall be calculated by using the following equation:

$$\text{RDL} = F_r \times C_r \times K$$

Where:

RDL = reduced discharge level

$F_r$  = flow after changes have been made to generate discharge reductions, expressed in million gallons per day (MGD)

$C_r$  = a pollutant concentration after changes have been made to generate discharge reductions, expressed in milligrams per liter (mg/l)

K = a unit conversion constant of 8.346 liter pounds per gallon milligrams.

(5) The quantity of discharge reductions generated shall be determined by subtracting the reduced discharge level calculated under subrule (4) of this rule from the baseline calculated under subrule (3) of this rule.

(6) The quantity of credits generated and which may be registered under R 323.3018(1) shall be the quantity of discharge reductions calculated under subrule (5) of this rule minus the water quality contribution required under R 323.3015(1).

(7) The same methods and procedures shall be used to calculate the baseline, reduced discharge level, discharge reductions generated, and credits. The baseline, reduced discharge level, and quantity of discharge reductions generated shall be expressed in the same units.

**R 323.3012 Baseline for permitted sources of stormwater; reduced discharge or loading level; generation of discharge or load reductions and credits.**

Rule 12. (1) The baseline shall be the numerical effluent limitation or the pollutant-specific loading achieved after implementation of management practices specified in a national pollutant discharge elimination system permit.

(2) The baseline, reduced discharge level, generation of discharge reductions, and credits for stormwater sources with numerical effluent limitations specified by a permit shall be calculated by using R 323.3011(2), (3), (4), (5), (6), and (7) of this part.

(3) The baseline, reduced loading level, generation of load reductions, and credits for stormwater sources controlled through the implementation of management practices specified by permit shall be calculated by using R 323.3013(2), (3), (4), (5), and (6) of this part.

(4) Monitoring data and actual measurements of load reductions achieved in practice from changes in land use, pollution control facilities, and implementation of management practices shall be used where required by a permit; and, otherwise, may be used where such information is available.

**R 323.3013 Baseline for unpermitted nonpoint sources of stormwater runoff other than agriculture, reduced loading level, and generation of load reductions and credits.**

Rule 13. (1) The stormwater runoff baseline shall be either of the following:

(a) For nonpoint sources that are not subject to an applicable requirement, the pollutant-specific loading associated with existing land uses and management practices, if any.

(b) For nonpoint sources that are subject to an applicable requirement, the most protective of any of the following:

(i) A pollutant-specific cap and loading allocation specified in a total maximum daily load.

(ii) A pollutant-specific cap and loading allocation or the management practices specified in watershed management plan approved by the department under this part.

(iii) A pollutant-specific cap and loading allocation or the management practices determined by the department to be consistent with water quality standards and specified in a remedial action plan or lakewide management plan.

(2) If not otherwise specified by an applicable requirement, the stormwater runoff baseline shall be calculated by using the equations in subdivisions (a), (b), (c), (d), and (e) of this subrule.



The pollutant-specific loading factor ( $M_L$ ) shall be computed for each land use (L) within a watershed or drainage area by the following Equation 1:

$$M_L = EMC_L * R_L * K$$

Where:

$M_L$  = pollutant-specific loading factor for land use L (lbs/ac/yr).

$EMC_L$  = event mean concentration of stormwater runoff from a specific land use L (mg/l) as specified in Table 1 or as approved by the department on a case-by-case basis.

$R_L$  = total average annual stormwater runoff from land use L computed from Equation 2 (in/yr).

$K$  = 0.2266, a unit conversion constant, for all parameters.

Table 1. Event mean concentrations.

Land Use Category (Non-Site Specific)	BOD (mg/L)	TSS (mg/L)	Percent Impervious	TP (mg/L)	DP (mg/L)	TKN (mg/L)	NO23 (mg/L)	Pb (ug/L)	Cu (ug/L)	Zn (ug/L)	Cd (ug/L)
Forest/Rural Open	3	51	N/A	0.11	0.027	0.94	0.80	0.0	0.0	0.0	0.0
UUrban Open	3	51	0.5%	0.11	0.03	0.94	0.80	14.2	0.0	40.2	0.8
Agricultural	3	145	N/A	0.37	0.09	1.92	4.06	0.0	0.0	0.0	0.0
Low Density Residential	38	70	10.0%	0.52	0.27	3.32	1.83	56.9	26.2	161.1	3.9
Medium Density Residential	38	70	30.0%	0.52	0.27	3.32	1.83	56.9	26.2	161.1	3.9
High Density Residential	14	97	N/A	0.24	0.08	1.17	2.12	40.5	33.0	217.9	3.2
Commercial	21	77	90.0%	0.33	0.17	1.74	1.23	49.3	37.0	156.3	2.7
Industrial	24	149	80.0%	0.32	0.11	2.08	1.89	72.4	58.0	670.8	4.8
Highways	24	141	90.0%	0.43	0.22	1.82	0.83	49.3	37.0	156.3	2.7
Water/Wetlands	4	6	100.0%	0.08	0.04	0.79	0.59	11.1	6.5	30.3	0.6

(b) The average annual stormwater runoff volume for the pervious and impervious areas in each land use category shall be calculated by multiplying the average annual rainfall volume by a runoff coefficient. The total average annual surface runoff from a specific land use, L, shall be calculated by weighting the pervious and impervious area runoff factors for each land use category by the following Equation 2:

$$R_L = [C_p + (C_I - C_p) IMR] * I$$



Where:

$R_L$  = total average annual surface runoff from land use L (in/yr).

$IMP_L$  = fractional imperviousness of land use L.

= long-term average annual precipitation (in/yr).

$C_p$  = pervious area runoff coefficient.

$C_i$  = impervious area runoff coefficient as specified in Table 1 or as approved by the department on a case-by-case basis;  
and, where the total runoff in a watershed shall be the area-weighted sum of  $R_L$  for all land uses.

(c) The average total annual load from a watershed or drainage area shall be computed by the following Equation 3:

$$Load_P = \sum M_L * A_L$$

Where:

$Load_P$  = total average annual load, expressed in pounds.

$M_L$  = loading factor for land use L (lbs/ac/yr) from Equation 1.

A = area (acres) for land use L.

(d) The percent stormwater load reduction from existing management practices in each subbasin of the watershed or drainage area shall be calculated by the following Equation 4:

$$P_{L, SB} = (AC_{1, SB} * REM_1) \dots \dots (AC_{N, SB} * REM_N)$$

Where:

$P_{L, SB}$  = percent of annual storm water pollutant load captured in subbasin SB by application of the N management practices on land use L.

$AC \dots AC_{N, SB}$  = fractional area coverage of management practices 1 through N on subbasin SB.

$REM_1 \dots REM_N$  = removal efficiency of management practices 1 through N derived from Table 2.



Table 2. Annual pollutant removal rates for retention and detention basin stormwater management practices.

POLLUTANT	POLLUTANT REMOVAL RATES (%)					
	EXTENDED DRY DETENTION	WET DETENTION	RETENTION	SWALES		
BOD	30%	30%	90%	30%		
COD	30%	30%	90%	30%		
TSS	90%	90%	90%	80%		
TDS	0%	40%	90%	10%		
Total-P	30%	50%	90%	40%		
Dissolved-P	0%	70%	90%	10%		
TKN	20%	30%	90%	40%		
NO <sub>2</sub> +NO <sub>3</sub>	0%	30%	90%	40%		
Lead	80%	80%	90%	75%		
Copper	60%	70%	90%	50%		
Zinc	50%	50%	90%	50%		
Cadmium	80%	80%	90%	65%		

(e) The stormwater runoff baseline for a watershed or drainage area under a given land use scenario and existing management practices shall be calculated by subtracting the percent stormwater runoff load reductions calculated under subrule (2)(d) of this rule from the average total annual loading calculated under subrule (2)(c) of this rule and summing over all land uses and all subbasins by the following Equation 5:

$$MASS = \sum_{SB=1}^N \sum_{L=1}^N M_{L,SB} * A_{L,SB} * (1 - P_{L,SB})$$

Where:

MASS = annual stormwater runoff pollutant-specific loading for the watershed or drainage area, expressed in lbs/yr for a given land use scenario.

(3) Reduced loading levels achieved after making changes in land use or the implementation of new or modified management practices shall be calculated by using the procedure and equations specified in subrule (2)(a), (b), (c), (d), and (e) of this rule.

(4) The quantity of stormwater load reductions generated shall be calculated by subtracting the reduced loading levels calculated under subrule (3) of this rule from the stormwater runoff baseline calculated under subrule (2) of this rule.

(5) The quantity of credits generated and which may be registered under R 323.3018(1) shall be the quantity of stormwater load reductions calculated under subrule (4) of this rule minus the water quality contribution required under R 323.3015(2).

(6) The same methods and procedures shall be used to calculate the baseline, reduced loading level, load reductions generated, and credits. The baseline, reduced loading level, and quantity of load reductions generated shall be expressed in the same units.



(7) Monitoring data and actual measurements of pollutant load reductions achieved in practice from changes in land use and implementation of management practices may be used where such information is available.

**R 323.3014 Agricultural nonpoint source baseline; reduced loading level; generation of load reductions and credits.**

Rule 14. (1) The baseline for agricultural operations shall be the most protective of any of the following:

(a) The pollutant-specific loading from existing agricultural operations that are not subject to an applicable requirement.

(b) The pollutant-specific loading achieved after implementation of management practices established by an applicable requirement.

(c) A pollutant-specific cap and loading allocation specified in watershed management plan approved by the department under this part.

(d) A pollutant-specific cap and loading allocation determined by the department to be consistent with water quality standards and specified in a remedial action plan or lakewide management plan.

(2) The baseline for agricultural operations that are not subject to an applicable requirement shall be established by a plan prepared by a person who is a certified planner under the program administered by the United States department of agriculture, natural resource conservation service.

(3) The plan required under subrule (2) of this rule shall include all of the following:

Documentation of existing agricultural operations and management practices.

(b) Quantification of the pollutant-specific loading from existing operations and management practices.

(c) Identification of operational changes and management practices which may be implemented to reduce loadings.

(d) Quantification of the pollutant-specific load reductions from each operational change and management practice recommended in the plan.

(4) If not specified otherwise by an applicable requirement, the baseline and pollutant-specific reduced loading level for each operational change and management practice recommended in the plan prepared pursuant to subrules (2) and (3) of this rule shall be established by one of the following methods and procedures, as applicable:

For sediment, sediment-borne phosphorus, sediment-borne nitrogen, and concentrated animal feedlot runoff, "Pollutants Controlled Calculation and Documentation," Michigan department of environmental quality, 1999. For commercial fertilizer application and manure management, methods and procedures approved by the department on a case-by-case basis.

Alternate methods and procedures or models provided electronically by the department may be used for sediment, sediment-borne phosphorus, sediment-borne nitrogen, concentrated animal feedlot runoff, commercial fertilizer application, and manure management when they become available.

(5) The quantity of load reductions generated shall be determined by subtracting from the baseline calculated under subrule (1) or (2) of this rule, the combined reduced loading level for each operational change, and management practice implemented under the plan as calculated under subrule (4) of this rule.

(6) The baseline, reduced loading levels, and quantity of load reductions generated shall be expressed in pounds of a specific pollutant per year or month.

(7) The quantity of credits generated and which may be registered under R 323.3018(1) shall be the quantity of load reductions calculated under subrule (6) of this rule minus the water quality contribution required under R 323.3015(2).

(8) The same methods and procedures shall be used to calculate the baseline, reduced loading level, load reductions generated, and credits. The baseline, reduced loading level, and quantity of load reductions generated shall be expressed in the same units.

**R 323.3015 Water quality contribution and uncertainty.**

Rule 15. (1) Each point source that generates discharge reductions and registers credits under this part shall contribute 10% of the discharge reductions to the department to address uncertainty and to provide a net water quality benefit. This 1-time 10% contribution shall be effective at the time the department issues a notice of completeness for a notice of generation.

(2) Each nonpoint source that generates load reductions and registers credits under this part shall contribute 50% of the load reductions to the department to address uncertainty and to provide a net water quality



benefit. This 1-time 50% contribution shall be effective at the time the department issues a notice of completeness for a notice of generation.

**R 323.3016 Discount factors applied to the use of credits.**

Rule 16. (1) A source that uses credits generated by another source upstream of a wetland, pond, lake, or impoundment located between the sources in an attainment area or a nonattainment area for which a total maximum daily load has not been established shall obtain a quantity of credits 10% greater than the amount required to comply with a water quality-based effluent limitation specified by an applicable requirement. This equivalence factor shall be applied at the time a notice of use is submitted under R 323.3019(1) of this part.

(2) A source that uses credits in a nonattainment area for which a total maximum daily load has not been established shall obtain a quantity of credits 10% greater than the amount required to comply with a water quality-based effluent limitation or the loading that would be achieved in practice through implementation of management practices specified by an applicable requirement, whichever is applicable. This water quality factor shall be applied at the time a notice of use is submitted under R 323.3019(1) of this part.

(3) Discount factors different than those specified in subrules (1), (2), and (3) of this rule may be established by the department where necessary to achieve and maintain water quality standards or as a requirement for a watershed management plan or other type of trade approved by the department pursuant to this part.

**R 323.3017 Nutrient discharge and load reductions; early reductions and credit life.**

Rule 17. (1) Credits for total phosphorus and total nitrogen which are entered in the water quality trading registry under R 323.3020(1) may be used or traded for a period of 5 calendar years after the year of generation, subject to the prohibitions, restrictions, and conditions established in this part. Credits not used within the credit life specified in this subrule shall be retired to provide a water quality benefit and shall not be eligible for use under this part.

(2) Point source discharge reductions and nonpoint source load reductions of total phosphorus or total nitrogen that are necessary to comply with a proposed applicable requirement and which occur after the date the applicable requirement is proposed and before the final compliance date specified by the applicable requirement, may be used or traded for a period of 5 calendar years after the year of generation or 1 calendar year after the effective date of final compliance, whichever occurs first. Credits not used within the credit life specified in this subrule shall be retired to provide a water quality benefit and shall not be eligible for use under this part.

**R 323.3018 Notification requirements for generation of discharge, load reductions, and registration of credits.**

Rule 18. (1) A person who generates a discharge or load reduction and wishes to register credits shall provide to the department, a notice and certification of the discharge or load reduction being generated and the credits being registered.

(2) The notification required by subrule (1) of this rule shall include all of the following information:

(a) The name and location, by address, county, and watershed, of the source, process, or operation at which discharge or load reductions have been or will be generated and the location where records are or will be kept.

(b) The name, address, and telephone number of the responsible individual providing notice and certification of the discharge or load reductions generated and credits being registered.

(c) The numerical effluent limitation or management practices specified by an applicable requirement, the actual discharge level or existing management practices, and associated loadings that constitutes the baseline, the reduced discharge level, or loading that must be complied with during the time reductions are made to generate credits.

(d) The total pollutant-specific quantity of discharge or load reductions generated and the quantity of credits to be registered, by watershed.

(e) An identification of the source, process, or operation at which discharge or load reductions have or will be generated.

(f) A description of the method or methods used to generate the discharge or load reduction.

(g) The date that the discharge or load reduction will take effect and the period of time that the reduction will remain in effect.



(h) The methods, procedures, and calculations used to determine the baseline, reduced discharge, or loading level, discharge or load reduction generated and credits registered.

An identification of quantification and monitoring methods and procedures established by an applicable requirement, if any.

(3) The notice required by subrule (2) of this rule shall be accompanied by a certification by the responsible individual of all of the following:

(a) That to the best of the responsible individual's knowledge, the information contained in the notice is true, accurate, and complete.

(b) The discharge or load reductions are real, surplus, and quantifiable, and if the reductions have not already been generated, that the reductions will be generated by the date and for the period of time specified in the notice of generation that has been determined to be complete by the department pursuant to subrule (4) of this rule.

(c) The discharge or load reductions have not been used elsewhere as credits.

(4) The applicant shall submit the notice and certification required under this rule electronically or by certified mail to the department for a determination of completeness. Within 30 days of receipt of the notice and certification, the department shall make a completeness determination and provide a written response to the person submitting the notice and certification as to the completeness of the submittal. A determination of completeness or incompleteness made by the department shall be considered a final agency decision subject to review by a court of competent jurisdiction under section 631 of Act No. 236 of the Public Acts of 1961, as amended, being §600.631 of the Michigan Compiled Laws. A determination of completeness by the department does not constitute an agency certification that the credits are real, surplus, or quantifiable. If the notice and certification are determined to be complete, then the department shall, within 5 business days, enter the information required by R 323.3020(2) in the water quality trading registry. Immediately upon entry in the water quality trading registry, the information in the notice and certification shall be available to the public, except for information that is determined to be confidential under the provisions of section 3111 of Part 31 of Act No. 451 of the Public Acts of 1994, R 323.2128 of the Michigan Administrative Code and the freedom of information act, Act No. 442 of the Public Acts of 1976, being §§15.231 to 15.246 of the Michigan Compiled Laws. If the notice and certification are determined by the department to be incomplete, then the discharge or load reductions are not eligible to generate credits. A notice of incompleteness shall not preclude a person from submitting a corrected or revised notice and certification.

(5) The methods used, operational changes made, or management practices implemented to generate credits for which a complete notice and certification is submitted to the department shall become legally enforceable requirements upon the effective date of the notice of completeness issued by the department or the date that the discharge or load reductions will be generated as specified in the notice determined to be complete by the department.

(6) Approval of a notice by the department pursuant to subrule (1) of this rule shall constitute a permit modification by rule for the period specified in the notice for a point source that has been issued a national pollutant discharge elimination system permit. The discharge from a source shall be considered by the department to be in compliance if the actual discharge is equal to or less than the baseline specified in the notice minus the quantity of discharge reductions that are generated.

(7) A source which generates credits pursuant to this part shall report to the department the baseline, the quantity of discharge or load reductions, and the credits generated for each pollutant, expressed in pounds per day, week, month, or year. For point sources, this information shall be submitted to the department on discharge monitoring report forms provided by the department as necessary to be consistent with the effluent limitations, monitoring, and reporting requirements specified in a national pollutant discharge elimination system permit. The discharge monitoring report forms provided by the department shall include data fields to show the baseline and the quantity of discharge reductions and credits generated for each pollutant expressed in pounds per day, week, month or year, as necessary to be consistent with the corresponding effluent limitation specified in the national pollutant discharge elimination system permit. For nonpoint sources, an annual report shall be submitted to the department on a form provided by the department.

**R 323.3019 Notification requirements for the registration, use, and trading of credits.**

Rule 19. (1) A person applying to use or trade credits under the provisions of this part shall provide prior notice to the department. The notice shall include all of the following information:

- (a) The name and location, by address, county, and watershed, of the source, process, or operation at which credits are to be used or traded.
  - (b) The name, address, and telephone number of the responsible individual providing notice of use or trading of credits.
  - (c) The numerical effluent limitation or management practices specified by an applicable requirement, the number of credits used to comply with the effluent limitation or the loadings associated with management practices specified by an applicable requirement, and the actual discharge level, management practices, and associated loading that must be complied with during the use of credits.
  - (d) The pollutant-specific quantity of credits, in pounds per day, week, month, or year, that are used or traded, on a watershed basis.
  - (e) A description of the source, process, or operation at which the credits are to be used.
  - (f) An identification of all applicable requirements to be complied with through the use of credits and the methods and procedures used to quantify loading and to determine compliance with each applicable requirement.
  - (g) The effective dates of use of the credits and calculations demonstrating compliance through the use of credits.
  - (h) A copy of the notice of generation required under R 323.3018(1) for the credits to be traded or used.
- (2) The notice required by subrule (1) of this rule shall be accompanied by a certification by the responsible individual, that the information in the notice is true, accurate, and complete and that the source, process, or operation shall be operated in compliance with all applicable requirements and the conditions and requirements for the use of credits under this part.
- (3) The notice and certification required under this rule shall be submitted electronically or by certified mail to the department for a determination of completeness. The department shall enter the proposed notice of use on the registry within 3 business days of receipt. Within 30 days of receipt of the notice and certification, the department shall make a completeness determination and provide a written response to the person submitting the notice and certification as to the completeness of the submittal. A determination of completeness or incompleteness made by the department shall be considered a final agency decision subject to review by a court of competent jurisdiction under section 631 of Act No. 236 of the Public Acts of 1961, as amended, being §600.631 of the Michigan Compiled Laws. If the notice and certification are determined to be complete, then the department shall, within 5 business days, enter the information required by R 323.3020(2) in the water quality trading registry. Immediately upon entry in the water quality trading registry, the information in the notice and certification shall be available to the public, except for information that is determined to be confidential under the provisions of section 3111 of Part 31 of Act No. 451 of the Public Acts of 1994, R 323.2128 of the Michigan Administrative Code, and the freedom of information act, Act No. 442 of the Public Acts of 1976, being §§15.231 to 15.246 of the Michigan Compiled Laws. If the notice and certification are determined by the department to be incomplete, then credits shall not be used or traded under this part. A notice of incompleteness shall not preclude a person from submitting a corrected or revised notice and certification.
- (4) The department shall not issue a notice of completeness for a proposed use of credits that the department determines is inconsistent with any applicable provision of this part. The department shall send a written response to the person who submitted the notice of use and certification explaining why the determination of inconsistency was made. A determination of inconsistency with the provisions of this part by the department shall not preclude a person applying to use credits from submitting a revised notice and certification to correct the inconsistencies identified by the department.
- (5) The methods used, and operational changes made, to use credits for which a notice and certification are determined to be complete by the department shall become legally enforceable operating requirements effective on the date the department issues a notice of completeness, or the time period that is specified in the notice of use determined to be complete by the department.



(6) A person who purchases, trades, or uses credits under this part shall include the price paid for the credits in the notice required by subrule (1) of this rule, or by separate written notice to the department within 7 business days of the purchase, trade, or use.

(7) A person who has registered the use of credits with the department shall be allowed a period of time, not to exceed 60 days, commencing with the end of the use period specified in the notice of use to amend the notice of use and to submit a notice and certification pursuant to R 323.3018(1) to register any unused credits in excess of the quantity needed for the uses specified in the original notice of use.

Approval of a notice by the department pursuant to subrule (1) of this rule shall constitute a permit modification by rule for the period specified in the notice for a point source that has been issued a national pollutant discharge elimination system permit. The discharge from a source shall be considered by the department to be in compliance if the actual discharge is equal to or less than the water quality-based effluent limitation specified in the permit plus the quantity of credits used expressed in pounds per day, week, month, or year, as necessary to be consistent with the corresponding effluent limitation specified in a national pollutant discharge elimination system permit.

(9) A source which uses credits pursuant to this part shall report to the department the number of credits used for each pollutant, expressed in pounds per day, week, month, or year. For point sources, this information shall be submitted to the department through discharge monitoring reports provided by the department as necessary to be consistent with the corresponding effluent limitation specified in a national pollutant discharge elimination system permit. The discharge monitoring report forms provided by the department shall include data fields to show the quantity of credits used for each pollutant, expressed in pounds per day, month, or year as necessary to be consistent with the corresponding effluent limitation specified in a national pollutant discharge elimination system permit. For nonpoint sources, an annual report shall be submitted to the department on a form provided by the department.

#### **R 323.3020 Water quality trading registry.**

Rule 20. (1) The department shall establish and maintain a water quality trading registry for all of the following purposes:

(a) Registering discharge and load reductions that are generated under this part.

(b) Registering and tracking the generation, use, and trading of credits.

(c) Registering the discharge and load reductions that are contributed to the state for retirement as a water quality contribution under R 323.3015(1) and (2).

(d) Providing real time public access to information on the water quality trading program.

(2) The water quality trading registry shall contain all the information required by R 323.3018(2) and R 323.3019(1).

(3) The water quality trading registry shall be updated daily by the department.

(4) The department shall make the following information contained in the water quality trading registry available to the public through daily updates to an electronic bulletin board:

The name and location, by address, county, and receiving water or watershed, of the sources, processes, and operations at which discharge or load reductions have been or will be generated.

(b) A brief description of the source, process, or operations at which discharge or load reductions and credits have been or will be generated.

(c) The numerical effluent limitation or management practices specified by an applicable requirement, the actual discharge level or existing management practices, and associated loadings that constitute the baseline, the reduced discharge level, or loading that must be complied with during the time reductions are made to generate credits.

(d) The pollutant-specific quantity of credits, in pounds per day, week, month, or year that have been registered.

(e) A brief description of the method or methods used, or to be used, to generate discharge or load reductions and credits.

(f) The effective date and the life of credits that have been or will be generated.

(g) Identification of the methods and procedures used to quantify the generation of discharge or load reductions, and the use of credits to comply with applicable requirements.

(h) The name and location, by address, county, and receiving water or watershed, of the source, process, and operations at which credits are being, or will be, used.



A description of the source, process, or operations at which credits are, or will be, used.

(j) The numerical effluent limitation or management practices specified by an applicable requirement, the number of credits used to comply with the effluent limitation or the loadings associated with management practices specified by an applicable requirement, and the actual discharge level, management practices, and associated loading that must be complied with during the use of credits.

(k) The pollutant-specific quantity of credits used, in pounds per day, week, month, or year on a watershed basis.

(l) The effective date and period of time during which credits will be used.

(m) An identification of the applicable requirement that credits are being or will be used to comply with.

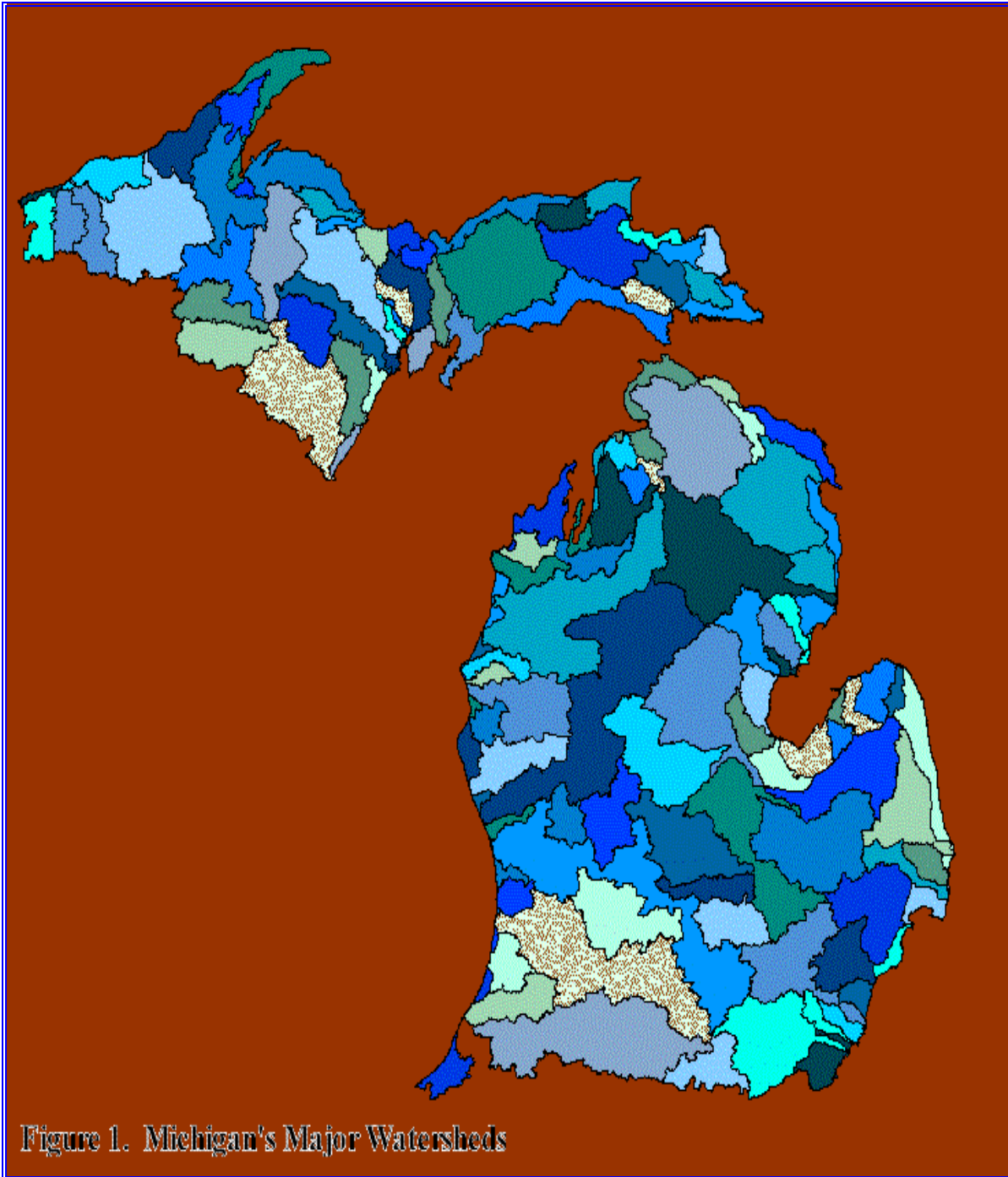
(n) The net water quality benefit, by pollutant, for each watershed where trading occurs.

(5) The responsible individual who certified the generation or use of credits shall notify the department of any data entry errors and necessary corrections to the information posted on the electronic bulletin board within 10 business days of the receipt of a determination of completeness from the department. The department shall promptly correct any data entry errors on the electronic bulletin board.

**R 323.3021 Delineation of watersheds for purposes of water quality trading.**

Rule 21. (1) A watershed in which trading occurs under this part shall be delineated by one of the following methods, whichever is applicable:

(a) For open nutrient trading, the watersheds shall be delineated by the department's map of Michigan's major watersheds (figure 1). This map may be obtained electronically from the department's web page or from the department's land and water management division.



- (b) For closed nutrient trading in areas for which a total maximum daily load has been established, the watersheds shall be delineated as described in the federal clean water act section 303(d) list prepared by the department and approved by the administrator.
- (c) For closed nutrient trading in areas for which the department has approved a watershed management plan under this part, the watershed shall be the surface water and area identified and delineated in the plan.
- (d) For other types of trades approved by the department under this part, the trading area for the specific pollutant or pollutants to be traded shall be established on a case-by-case basis.

**R 323.3022 Watershed management plans for water quality trading; Submittal; approval.**

Rule 22. (1) Water quality trading under this part may occur under any of the following plans that include all the information required in subrule (2) of this rule:

- (a) A plan approved by the department and the administrator for implementation of a total maximum daily load developed under section 303(d) of the federal clean water act.
- (b) A remedial action plan or lakewide management plan that has been determined by the department to be consistent with water quality standards.
- (c) A watershed management plan developed under a grant awarded by the department under section 319 of the federal clean water act and implemented with other sources of funding.
- (d) A watershed-based storm water management program or a storm water pollution prevention initiative approved by the department under a national pollutant discharge elimination system permit.
- (e) A watershed-based storm water management program submitted under a voluntary permit issued by the department.
- (f) A nonpoint source watershed management plan developed under a grant awarded by the department under the Clean Michigan Initiative, Act 287 of the Public Acts of 1998, being §§324.8801 to 324.8808 of the Michigan Compiled Laws and implemented with other sources of funding.

(2) In addition to the plan content and specifications established by an applicable requirement, each plan listed in subrule (1) of this rule shall also include all of the following information for the purpose of water quality trading:

An identification and statement of the purpose of the plan.

(b) An identification and delineation of the boundaries of the receiving water or watershed for which the plan has been prepared and where trading may occur.

(c) A pollutant-specific inventory of point and nonpoint sources that may engage in trading in the plan area.

(d) A pollutant-specific cap for the receiving water or watershed that includes all the point and nonpoint sources that may engage in trading in the plan area and that is consistent with achieving and maintaining water quality standards.

(e) Point and nonpoint source baseline allocations or management practices for all the sources that may generate, use, or trade credits in the plan area.

(f) Either a demonstration that the use of credits under the plan does not constitute a lowering of water quality pursuant to R 323.1098(8) or (9); or, a demonstration that social or economic development and the benefits to the area in which the receiving waters are located would be forgone if the use of credits is not allowed in accordance with the provisions of R 323.1098(4).

(3) Plans listed under subrule (1) of this rule shall be approved by the department before any trading activity occurs under the plan and this part.

(4) In addition to the plans listed under subrule (1) of this rule, any person may voluntarily submit to the department for approval a comprehensive watershed management plan to conduct water quality trading for any of the following purposes:

(a) Implementing programs or projects to improve water quality and enhance aquatic habitat.

Re-establishing or creating wetlands or floodplains.

Encouraging environmentally sound land use practices.

Accommodating growth and economic development.

Creating nature conservancies, parks, and natural areas.

(f) Other projects or programs included in a plan determined by the department to be consistent with water quality standards.

(5) Watershed management plans submitted pursuant to the department under subrule (4) of this rule may be prepared by:

(a) Any person living in the plan area.

(b) Any municipality in the area for which the plan is prepared.

(c) Any watershed council or other organization authorized to prepare and submit a plan on behalf of those affected in the plan area.

(6) Watershed management plans prepared under subrule (4) of this rule shall be based on the most complete, accurate, and reliable data and information available. The plans shall include all of the following:

(a) A statement of the purpose of the plan.



- (b) An identification and delineation of the boundaries of the receiving water or watershed for which the plan has been prepared and where trading may occur.
  - (c) A description of current and projected land use activities within the area for which the plan is prepared.
  - (d) An assessment of existing water quality and comparison to water quality standards for the receiving waters or watershed for which the plan is prepared.
  - (e) A pollutant-specific inventory of point and nonpoint sources in the plan area.
  - (f) An identification of goals and priorities for implementing the plan.
  - (g) Specific activities, management options, and a schedule for implementation of the plan.
  - (h) An identification of those persons, organizations, and agencies responsible for implementation of the plan.
  - (i) A pollutant-specific cap that is consistent with achieving and maintaining water quality standards in the receiving water or watershed and that includes all point and nonpoint sources that may engage in trading.
  - (j) Point and nonpoint source baseline allocations or management practices for the generation and use of credits by all sources that may engage in trading in the plan area.
  - (k) Either a demonstration that the use of credits does not constitute a lowering of water quality pursuant to R 323.1098(8) or (9); or, a demonstration that the social or economic development and the benefits to the area in which the receiving waters are located would be forgone if the use of credits is not allowed in accordance with the provisions of R 323.1098(4).
  - (l) A program to periodically assess the effectiveness of, and make revisions to, the plan.
  - (m) A process for stakeholder involvement throughout the development, implementation, and revision of the plan.
  - (n) A written agreement, and all approvals as may be required by law, from each person that is affected by or may engage in trading under the plan.
- (7) A watershed management plan submitted under subrules (1) and (4) of this rule shall be reviewed by the department under the provisions of the federal clean water act, the code of federal regulations, Act No. 451, and rules promulgated thereunder. The department shall approve plans that are consistent with this part, comply with applicable federal and state regulations, and which provide reasonable assurances that water quality will be achieved and maintained.
- (8) Before approving a watershed management plan submitted under subrule (1) or (4) of this rule, the department shall provide public notice and a 30-day comment period on the watershed management plan and the department's proposed action to approve the plan. The department shall hold a public hearing if the department determines that a sufficient public controversy exists or that additional information is necessary under subrule (2) or (6) of this rule. The department shall consider all comments received during the comment period and the public hearing, if held, before taking final action to approve the plan.
- (9) Approval or disapproval of the watershed management plan by the department shall be final unless a petition for judicial review is filed with a court of competent jurisdiction within 30 days of disapproval.
- (10) A watershed management plan and revisions to the plan, approved by the department, shall be effective for a period of not more than 5 years. The plan and revisions to the plan shall be binding on the department and the parties to the plan, unless the plan is withdrawn or it has been set aside, modified, or terminated by a court of competent jurisdiction.

### **R 323.3023 Program Evaluation.**

Rule 23. (1) The department shall conduct an evaluation of the water quality trading program established under this part to assess the environmental and economic performance of the program. The first evaluation shall be conducted 3 years after the effective date of this part. The first evaluation shall include all trading activity that occurs statewide. Thereafter, watershed-specific evaluations shall be conducted every 5 years, or more frequently if deemed necessary by the department, in a receiving water or watershed where trading occurs. These watershed-specific evaluations shall be conducted during the same basin year that ambient monitoring and permitting cycles are conducted by the department. The evaluations shall include all of the following information:

Identification of the receiving water or watershed where trading has occurred. The identification shall include a delineation of the trading area, the number and mix of point and nonpoint sources in the trading area, and the status of water quality in the trading area.

Ambient monitoring conducted by the department to quantify actual nonpoint source load reductions and assess water quality in a receiving water or watershed where trading has occurred. The department may



include monitoring data and information conducted by other agencies, institutions, organizations, or persons where such monitoring has been conducted in accordance with procedures outlined in 40 C.F.R. §136 (1998), or in accordance with other procedures approved by the department.

- (c) The type and number of trades, by pollutant, for each watershed where trading occurs.
- (d) The quantity of credits that have been traded.
- (e) The quantity of discharge or load reductions that have been retired.
- (f) A comparison of the cost of reducing pollutant discharges and loadings through trading to the cost of achieving equivalent reductions without trading, where adequate information for point and nonpoint sources is available.

The price paid for credits that are used or traded, by pollutant.

The costs incurred by the department to administer, monitor, and enforce the program.

The transaction costs incurred by point and nonpoint sources that participate in the program where such information is available.

(2) The department shall evaluate the information provided under subrule (1) of this rule to make the following determinations:

- (a) Whether the program is consistent with achieving and maintaining water quality standards in the receiving waters or watersheds where trading has occurred.
- (b) Whether water quality trading has resulted in a net reduction in the loadings of pollutants from point and nonpoint sources that have engaged in trading.
- (c) Whether the program has achieved voluntary and early reductions of pollutant discharges and loadings from point and nonpoint sources and whether the program has resulted in the development of emerging pollution control technology or new or improved methods and procedures for the quantification of point and nonpoint source discharges.
- (d) Whether the program has caused any localized adverse effects to the public health, safety, welfare, or environment.
- (e) Whether monitoring, recordkeeping, reporting, and enforcement provisions of the program have resulted in a sufficiently high level of accountability and compliance.

(3) The department shall prepare and make available to the public a report of the program evaluation conducted pursuant to subrules (1) and (2) of this rule. The report shall include the findings of the evaluation and any proposed program modifications deemed necessary by the department to assure all of the following:

- (a) Trading occurs in a manner that is consistent with water quality standards.
- (b) Localized adverse impacts to the public health, safety, welfare, or environment do not occur as a result of the use of credits.
- (c) Trading results in a net water quality improvement.
- (d) To improve the environmental or economic performance of the program.

(4) The department shall provide a public notice and a 30-day comment period and opportunity for public hearing before finalizing the findings contained in the report and any proposed program modifications pursuant to subrule (3) of this rule. The department shall hold a public hearing if the department determines that a sufficient public controversy exists or if additional information is desired before action by the department. The department shall consider all comments received during the comment period and public hearing, if held, before finalizing the findings contained in the report and any proposed program modifications.

(5) The department shall, after public notice, comment, and opportunity for hearing, modify the program as necessary to achieve the purposes established in R 323.3002.

### **R 323.3024 Compliance and enforcement.**

Rule 24. (1) Notwithstanding another person's liability, negligence, or false representation, a person or source that uses credits under this part shall be solely responsible to assure that any source, process, equipment, property, and operations under his or her ownership or control is in compliance with all applicable discharge standards and effluent limitations. A person or source that generates discharge or load reductions and registers credits that are traded or used under this part shall be strictly liable for assuring that the reductions are real, surplus, quantifiable, and equal to the quantity of credits that are registered.

(2) A person or source at any time may provide written notice to the department that the quantity of discharge or load reductions actually generated or the quantity of credits used or traded are not real, surplus,



quantifiable, or are insufficient for the purpose they are registered. A person or source that provides a notice of insufficient reductions or credits without first having been notified by the department, shall be provided a reconciliation period of not more than 30 days to true-up the insufficient reductions or credits, providing that all of the following conditions are met:

- (a) The notice of insufficient reductions or credits is submitted by certified mail to the department within 7 days of the discovery that the reductions or credits are insufficient or are not real, surplus, or quantifiable.
- (b) The notice of insufficient reductions or credits submitted pursuant to subrule (2)(a) of this rule shall include all of the following information:
  - (i) A detailed description and explanation of how, and the date when, the insufficient reductions or credits were discovered.
  - (ii) A statement of the corrective actions taken or to be taken, and the time when the actions were completed or a schedule describing when the actions will be taken and completed.
  - (iii) A revised notice and certification of discharge or load reduction generation or credit use, whichever is applicable.
  - (iv) Certification by a responsible individual that, to the best of the individual's knowledge, the information in the notice of insufficient reductions or credits is true, accurate, and complete.
- (c) Upon submitting the notice of insufficient reductions or credits, the person submitting the notice shall also do 1 of the following, as applicable:
  - (i) If insufficient credits are registered and have been traded or are being used, then the person or source submitting the notice shall within 30 days, implement and register discharge or load reductions or obtain credits from another person or source to true-up the quantity of discharge or load reductions or credits that were insufficient or were not real, surplus, or quantifiable.

If the credits have not been used or traded, then the person or source submitting the notice of insufficient reductions shall contemporaneously submit either of the following:

- (A) A revised notice of generation of discharge or load reductions.
  - (B) A written request for the department to withdraw the credits from the water quality trading registry.
- (3) If the department finds, without being provided notice pursuant to subrule (2) of this rule, that a person or source has registered a quantity of reductions that are not real, surplus, or quantifiable or that the quantity of reductions is less than the quantity that have been used or traded, then the person or source who generated the insufficient reductions and registered credits shall generate or obtain, and donate credits to the department in an amount equal to treble the number of insufficient reductions and credits that are not real, surplus, or quantifiable. Discharge and load reductions generated and credits donated to the department under this subrule shall be retired to provide a water quality benefit.
- (4) A person or source that is granted a reconciliation period under subrule (2) of this rule and who complies with the requirements of subrule (2) of this rule and has not violated other provisions of this part shall be considered to be in compliance with this part.
- (5) If the department determines that person or source has violated the provisions of the act, rules promulgated under the act, or the provisions of this part, then the department may take appropriate enforcement action as provided under the act and this part. In any such enforcement proceeding, a person or source that generates reductions and registers credits shall have the burden of proof that the reductions generated and credits registered are real, surplus, quantifiable, and sufficient. A person who uses credits under this part shall have the burden of proof of due diligence to comply with all applicable discharge standards and effluent limitations established by an applicable requirement and to comply with the requirements of this part.
- (6) Notwithstanding other provisions of this rule, a source that uses credits that are later determined not to be real, surplus, quantifiable, or sufficient shall have a reconciliation period of 90 days to true-up the quantity of credits that were determined not to be real, surplus, quantifiable, or sufficient. The reconciliation period shall begin on the date of discovery by the source or the date of a written notification from the department, whichever is first. A source or person that knows, or should have known, that the credits used were not real, surplus, quantifiable, and sufficient shall not be entitled to the reconciliation period provided under this subrule.

**R 323.3025 Citizen petition.**

Rule 25. (1) Any person may file a petition with the director requesting the department to initiate enforcement action to enjoin, abate, or correct a violation of this part. The petition shall include all of the information specified in subrule (2) of this rule and shall be sent by certified mail. Within 10 business days of receiving a complete petition, the department shall provide the petitioner with a letter acknowledging receipt of the petition and provide a copy of the petition to the persons or sources named in the petition. Within 30 calendar days of receipt of a complete petition, the department shall have done one of the following:

Initiate appropriate enforcement action.

Provide the petitioner with a schedule for implementing enforcement action deemed appropriate by the department.

Provide the petitioner with a written explanation of why enforcement action is not appropriate or has not been taken.

A petition submitted under subrule (1) of this rule shall include all of the following information:

The name, location, and description of the person or source alleged to be in violation of this part.

A detailed description of the activity that constitutes the alleged violation of this part.

A reference to the specific rules or requirements of this part that are allegedly being violated.

Information to document and provide evidence to support the alleged violations.

The corrective measures believed to be appropriate to address the alleged violation.

If the department fails to provide a timely response to a petition filed under this part or the person who files the petition is not satisfied by the enforcement action taken by the department or the department's explanations why enforcement action has not been taken, the person may file a petition for a contested case hearing in accordance with the provisions of the act or initiate a civil action in a court of competent jurisdiction as otherwise provided by law.

Nothing in the part shall preclude, or create requirements that must be met by, a person initiating a citizen suit under the federal clean water act or seeking relief or initiating legal action as provided under state statutes.



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**NOTICE OF PUBLIC HEARING**

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**NOTICE OF PUBLIC HEARING**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**SURFACE WATER QUALITY DIVISION**

The Michigan Department of Environmental Quality (DEQ), Surface Water Quality Division, will conduct a public hearing on changes to administrative rules promulgated pursuant to Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451); R 323.3001 to 323.3025. These rules establish a voluntary statewide water quality trading program that will facilitate compliance with the federal clean water act and provide market-based incentives to improve water quality.

The public hearing will be held on June 7, 2000, at 9:00 am, in the G. Mennen Williams Auditorium located at 525 West Ottawa Street in Lansing, Michigan.

Copies of the proposed rules (ORR 99-036 EQ) are available for inspection at all Surface Water Quality Division offices. These rules may also be downloaded from the Internet through the Office of Regulatory Reform at <http://www.state.mi.us/orr>. Copies of the rules may also be obtained by contacting the Lansing office at:

Surface Water Quality Division  
Michigan Department of Environmental Quality  
Knapps Centre – Second Floor  
P.O. Box 30273  
Lansing, Michigan 48909-7773  
Phone: 517-373-2677  
Fax: 517-335-0889

All interested persons are invited to attend and present their views. It is requested that all statements be submitted in writing for the hearing record. Anyone unable to attend may submit comments in writing to the address above. Written comments must be received by June 14, 2000.

Persons needing accommodations for effective participation in the meeting should contact the Surface Water Quality Division at 517-373-2677 one week in advance to request mobility, visual, hearing, or other assistance.

This notice of public hearing is given in accordance with Sections 41 and 42 of Michigan's Administrative Procedures Act, 1969 PA 306, as amended, being Sections 24.241 and 24.242 of the Michigan Compiled Laws. Administration of the rules is by authority conferred on the Director of the DEQ by Part 31, Water Resources Protection, of the NREPA, 1994 PA 451, as amended, and Executive Order 1995-18. These rules will become effective 7 days after filing with the Secretary of State.

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David A. Hamilton, Chief  
Surface Water Quality Division



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**NOTICE OF PUBLIC HEARING**

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**NOTICE OF PUBLIC HEARING**  
**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**  
**BUREAU OF HEALTH SERVICES**

The Department of Consumer and Industry Services will hold a public hearing on June 20, 2000, from 9:30 a.m. until 11:30 a.m. at the Michigan Library and Historical Center, Auditorium, 717 West Allegan Street, Lansing, Michigan. Parking is available behind the Center.

The public hearing is being held to receive comments from the general public on issues concerning pain and symptom management.

Public Acts 421 through 426 of 1999, established chronic pain legislation designed to enhance the quality of care for pain and symptom management for Michigan citizens while reducing and removing roadblocks. The legislation established an Advisory Committee within the Department to identify citizen issues and make recommendations. The Committee is seeking input from chronic pain sufferers and their families in order to identify these issues.

The public hearing is being conducted by the Department under the authority of the legislation and in accordance with Public Act 306 of 1969, as amended.

Comments may be presented in person, with written comments available at the time of presentation, or submitted by mail prior to the hearing. Written comments will be accepted at the following address until June 23, 2000, at 5:00 p.m. Address all communications to:

Department of Consumer & Industry Services  
Bureau of Health Services  
P. O. Box 30670  
Lansing, MI 48909-8170  
Attention: Cathy Seyka, Licensing Manager  
E-mail address: [cathy.ann.seyka@cis.state.mi.us](mailto:cathy.ann.seyka@cis.state.mi.us)

All hearings are conducted in compliance with the 1990 Americans with Disabilities Act. Hearings are held in buildings that accommodate mobility-impaired individuals and accessible parking is available. A disabled individual requiring additional accommodations for effective participation in a hearing should call Flo Beasley at (517) 373-4070 (voice) or (517) 373-7489 (TTY) to make the necessary arrangements. To ensure availability of the accommodation, please call at least 1 week in advance.



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**OPINIONS OF THE  
ATTORNEY GENERAL**

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**OPINIONS OF THE ATTORNEY GENERAL**

CASINOS:

CONSTITUTIONAL LAW:

GAMBLING:

POLITICAL CONTRIBUTIONS:

Validity of section 3(1) of Casino Interest Registration Act regarding family members of persons holding a casino interest

Section 3(1) of the Casino Interest Registration Act, to the extent it requires spouses and children of persons holding a casino interest to register with the Secretary of State, is invalid in light of OAG, 1997-1998, No 7002, p 206 (December 17, 1998). This opinion concluded that a prohibition against political contributions by the spouse, parent, child or spouse of a child of a licensee or a person with an interest in a licensee or casino enterprise is unconstitutional.

Opinion No. 7053

May 3, 2000

Honorable Kwame M. Kilpatrick  
State Representative  
The Capitol  
Lansing, MI

You have asked two questions concerning the Casino Interest Registration Act which requires persons who hold a casino interest and their family members to register with the Secretary of State.

Your first question asks whether section 3(1) of the Casino Interest Registration Act (Registration Act), 1997 PA 74, MCL 432.271 *et seq*; MSA 18.969(401) *et seq*, to the extent it requires spouses and children of persons holding a casino interest to register with the Secretary of State, is invalid in light of OAG, 1997-1998, No 7002, p 206 (December 17, 1998). This opinion concluded that a prohibition against political contributions by the spouse, parent, child or spouse of a child of a licensee or a person with an interest in a licensee or casino enterprise is unconstitutional.

OAG, No 7002 considered the constitutionality of certain provisions of the Michigan Gaming Control and Revenue Act (Gaming Act).<sup>1</sup> In this opinion, former Attorney General

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<sup>1</sup> 1996 Initiated Law, MCL 432.201 *et seq*; MSA 18.969(201) *et seq*.



Frank J. Kelley concluded that subsections (4) and (5) of section 7b of the Gaming Act, which prohibit political contributions by the *spouse, parent, child, or spouse of a child* of certain casino-related licensees or interest holders, violate the free speech provisions of the First Amendment to the United States Constitution. *Id.*, p 210. After finding that the State has a compelling interest in preventing corruption and the appearance of corruption in the casino-related political process, the opinion concluded that the prohibition against political contributions by certain specified family members of licensees or persons with an interest in a licensee or casino enterprise impermissibly extends to persons who may have no stake in the casino-related political process. *Id.*, p 210.<sup>2</sup>

The Registration Act regulates persons "holding a casino interest" and includes in that definition, their spouse and children, requiring all to register with the Secretary of State. Section 3(1) provides that within five days of obtaining a casino interest, "the person who holds the casino interest" shall register with the Secretary of State. Section 2(g) defines a "[p]erson holding a casino interest" as:

- (i) A person who holds at least a 1% interest in a casino licensee or casino enterprise.
- (ii) A person who is a partner, officer, or key or managerial employee of the casino licensee or casino enterprise.
- (iii) A person who is an officer of the person who holds at least a 1% interest in the casino licensee or casino enterprise.
- (iv) The *spouse or children* of a person listed in subparagraphs (i) through (iii).

(Emphasis added.)

Section 5 of the Registration Act requires that twice a year the Secretary of State shall prepare, publish, and widely disseminate the names of persons who register. These materials would include the names of the spouse or children of persons holding a casino interest.

The Registration Act was tie-barred to the passage of 1997 PA 69, which amended the Gaming Act. Both acts were approved and filed with the Secretary of State on the same day.<sup>3</sup> The Registration Act and the Gaming Act both regulate persons holding casino interests. Statutes which relate to the same subject matter and are tie-barred, enacted by the same Legislature, and approved and filed on the same day, are *in pari materia* and must be read together as constituting one system of law. *People v Webb* 458 Mich 265, 274; 580 NW 2d 884

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<sup>2</sup> OAG, No 7002 states that "[t]his conclusion should not be misinterpreted to permit a family member to act as an agent of a licensee in making a prohibited political contribution or to permit a licensee to use a family member as a subterfuge in order to accomplish that which is otherwise prohibited by the [Gaming] Act." *Id.*, p 210

<sup>3</sup> Enacting section 1 of 1997 PA 74 states that, "This act does not take effect unless Senate Bill No. 569 of the 89th Legislature is enacted into law." SB 569 was enacted as 1997 PA 69. 1997 Journal of the Senate 1310. 1997 PA 74 and 1997 PA 69 were approved and filed with the Secretary of State on the same day.



(1998). Where statutes are *in pari materia*, reviewing courts must endeavor to give full effect to the provisions of each, if this can be done without repugnancy, absurdity or unreasonableness. *State Bar of Mich v Galloway*, 124 Mich App 271, 277; 335 NW2d 475 (1983), *aff'd* 422 Mich 188, 369 NW2d 839 (1985). Statutes which are *in pari materia* must be construed uniformly and consistently to achieve the intent of the Legislature. *Palmer v State Land Office Bd*, 304 Mich 628, 637; 8 NW2d 664 (1943).

Read together, the prohibitions against political contributions in section 7b of the Gaming Act, and the registration requirements in section 3(1) of the Registration Act, establish a comprehensive scheme of regulation of casino-related political contributions. A review of both acts demonstrates that the Registration Act's requirement that the spouse and children of persons with a casino interest register with the Secretary of State was enacted to complement and effectuate the Gaming Act's general prohibition against political contributions. OAG, No 7002 invalidated that prohibition. No provision in the Gaming Act, other than the invalidated provisions in sections 7b(4) and (5), is furthered by the registration requirement imposed upon the spouse and children of persons holding a casino interest.<sup>4</sup> As a consequence, enforcement of this provision would lead to the unreasonable requirement that disinterested persons, such as a licensee's estranged spouse, or a licensee's minor or estranged children, who "may have no stake whatever in the casino-related political process," OAG, No 7002, *id.*, p 210, and who are no longer prohibited from making political contributions, must nevertheless register with the Secretary of State or face criminal prosecution.<sup>5</sup> Thus, the registration requirement imposed on family members of persons holding casino interests has no regulatory purpose.

In *People ex rel Attorney General v Common Council of Detroit*, 29 Mich 108, 114 (1874), Justice Cooley addressed the continued validity of a statutory requirement where the underlying purpose of the requirement has been eliminated.

[W]here such a law creates a system, and the part which is legal cannot stand by itself without the aid of the rest, or is so much affected or disturbed by the rejection of the rest that it could not be supposed the Legislature would have adopted it by itself, the whole shall be rejected, because the part cannot be regarded as the expression of the legislative will.

Application of this principle compels the conclusion that the Registration Act's spouse and child registration requirement is now invalid. The act's registration requirement is so much affected and disturbed by the invalidation of the Gaming Act's general prohibition against political contributions by these persons that "it [cannot] be supposed the Legislature would have adopted [the registration provision] by itself." *People ex rel Attorney General v Common Council of Detroit*, *supra*, p 114.

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<sup>4</sup> Other provisions in the Gaming Act do regulate family members of casino interest holders. For example, section 5(1)(i) requires license applicants and their family members to disclose political contributions for a period of five years *before* applying for a license.

<sup>5</sup> Failure to register results in a late registration fee of \$10.00 for each unregistered day. Failure to register for over 30 days is a misdemeanor punishable by a fine up to \$1,000. Sections 3(2) and (3).



It is my opinion, therefore, in answer to your first question, that section 3(1) of the Casino Interest Registration Act, to the extent it requires the spouse and children of persons holding a casino interest to register with the Secretary of State, is invalid in light of OAG, 1997-1998, No 7002, p 206 (December 17, 1998).

MCL 8.5; MSA 2.216, a rule of statutory construction, provides that a statute is severable unless inconsistent with a manifest legislative intent that it not be severable. *Avis Rent-A-Car System v City of Romulus*, 400 Mich 337, 348; 254 NW2d 555 (1977). Here, there is no manifest legislative intent that the remaining valid portions of the Casino Interest Registration Act not be implemented. The other provisions of the Registration Act are capable of being carried out independently of the section at issue. Thus, section 3(1) of the Registration Act, to the extent it requires registration by spouses and children of casino interest holders, is severable from the rest of that act.

Your second question asks whether section 3(1) of the Casino Interest Registration Act, to the extent it requires spouses and children of persons holding a casino interest to register with the Secretary of State, violates Const 1963, art 4, § 24, which requires that a law not embrace more than one object that must be expressed in its title.

In light of my answer to your first question, it is not necessary to address your second question.

JENNIFER M. GRANHOLM  
Attorney General



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**ENROLLED SENATE AND HOUSE BILLS  
SIGNED INTO LAW OR VETOED  
(2000 SESSION)**

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*Pursuant to §24.208 of the Michigan Compiled Laws, the numbers and subject matter of the Enrolled Senate and House Bills signed into law by the Governor during the 2000 Regular Session of the Michigan Legislature and the corresponding Public Act numbers are published in the Michigan Register.*

*Mich. Const. Art. IV, §33 provides: "Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated."*

*Mich. Const. Art. IV, §27, further provides: "No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house."*




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**ENROLLED SENATE AND HOUSE BILLS  
SIGNED INTO LAW OR VETOED  
(2000 SESSION)**

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes/No	Governor Approved Date	Filed Date	Effective Date	Subject
1		385	Yes	2/11	2/11	02/11/00	<b>COMMUNICATIONS;</b> Mail; disclosure of certain personal information on mailing labels; prohibit. <b>(Sen. L. Bennett)</b>
2	4187		Yes	2/17	2/17	2/17/00 #	<b>CIVIL PROCEDURES;</b> Statute of limitations; statute of limitations for victims of domestic assault; extend. <b>(Rep. D. Cherry)</b>
3	4524		Yes	2/17	2/17	2/17/00 #	<b>CIVIL PROCEDURES;</b> Statute of limitations; statute of limitations for victims of domestic assault; extend. <b>(Rep. M. Shulman)</b>
4		456	Yes	2/18	2/22	02/22/00	<b>ANIMALS;</b> Dogs; leaders dogs; exempt training organization from dog license fees. <b>(Sen. G. Peters)</b>
5		755	Yes	2/18	2/22	02/22/00	<b>AGRICULTURE;</b> Products; potato commission; allow expansion of authority. <b>(Sen. J. Emmons)</b>
6		46	Yes	2/24	2/24	02/24/00	<b>TRANSPORTATION;</b> Carries; vehicles hauling agriculture commodities; provide for exception from weight and load maximums under certain conditions. <b>(Sen. L. Stille)</b>

- \* - I.E. means Legislature voted to give the Act immediate effect.  
 \*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.  
 \*\*\* - See Act for applicable effective date.  
 + - Line item veto  
 # - Tie bar



Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
7		581	Yes	2/24	2/25	02/25/00	<b>TRANSPORTATION;</b> Carries; width of certain combinations hauling pulpwood or unprocessed logs; provide for exception under certain circumstances. <b>(Sen. D. Koivisto)</b>
8		808	Yes	2/25	2/25	02/25/00	<b>INSURANCE;</b> Insurers; reorganization of domestic mutual insurer to a domestic mutual holding company and stock insurer; provide for. <b>(Sen. S. Johnson)</b>
9		641	Yes	3/7	3/7	03/07/00	<b>EDUCATION;</b> Other; qualified immunity for administering medication in public schools; revise for certain school employees. <b>(Sen. P. Hoffman)</b>
10		631	Yes	3/7	3/7	03/07/00	<b>EDUCATION;</b> Students; students possessing and using inhalers for asthma at school; allow and exempt school personnel from liability under certain circumstance. <b>(Sen. J. Schwarz)</b>
11		657	Yes	3/7	3/7	03/07/00	<b>OCCUPATIONS;</b> Social workers; licensure and regulation; transfer from occupational code to public health code. <b>(Sen. D Shugars)</b>
12	4591		Yes	3/7	3/8	03/08/00	<b>PROPERTY;</b> Land sales; seller disclosure statement; including additional notice requirements. <b>(Rep. P. Birkholz)</b>

- \* - I.E. means Legislature voted to give the Act immediate effect.
- \*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.
- \*\*\* - See Act for applicable effective date.
- + - Line item veto
- # - Tie bar



Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
13	5014		Yes	3/7	3/8	03/08/00	<b>PROPERTY;</b> Land sales; sellers disclosure; revise seller disclosure form. <b>(Rep. M. Middaugh)</b>
14	4644		Yes	3/7	3/8	3/8/00 #	<b>CONSUMERS PROTECTION;</b> Unfair trade practices; courier pickups of payment occurring before 3-day right of rescission period has expired under home solicitation sale act, 1971 PA 227; prohibit. <b>(Rep. P. Wojno)</b>
15	4645		Yes	3/7	3/8	3/8/00	<b>CONSUMERS PROTECTION;</b> Home solicitation sales; courier pickups of payment occurring before the 3-day right of rescission period has expired; prohibit. <b>(Rep. R. Johnson)</b>
16		509	Yes	3/7	3/8	3/8/00	<b>LAND USE;</b> Zoning and growth management; variance in airport zoning; authorize condemning agency to seek. <b>(Sen. W. North)</b>
17		515	Yes	3/7	3/8	3/8/00	<b>LAND USE;</b> Zoning and growth management; variance in natural rivers zoning; authorize condemning agency to seek. <b>(Sen. M. Dunaskiss)</b>
18		516	Yes	3/7	3/8	3/8/00	<b>LAND USE;</b> Zoning and growth management; variance in count zoning; authorize condemning agency to seek. <b>(Sen. B. Bullard Jr.)</b>

- \* - I.E. means Legislature voted to give the Act immediate effect.
- \*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.
- \*\*\* - See Act for applicable effective date.
- + - Line item veto
- # - Tie bar



Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
19		517	Yes	3/7	3/8	3/8/00	<b>LAND USE;</b> Zoning and growth management; variance in township zoning; authorize condemning agency to seek. ( <b>Sen. B. Bullard Jr.</b> )
20		518	Yes	3/7	3/8	3/8/00	<b>LAND USE;</b> Zoning and growth management; variance in city and village zoning; authorize condemning agency to seek. ( <b>Sen. S. Johnson</b> )
21	5067		Yes	3/10	3/13	03/13/00	<b>MENTAL HEALTH;</b> Code; establishment of certain county board membership; clarify. ( <b>Rep. S. Shackleton</b> )
22	4903		Yes	3/10	3/13	03/13/00	<b>HEALTH;</b> Other; disposition of abandoned animals; clarify. ( <b>Rep. G. Law</b> )
23	4807		Yes	3/10	3/13	03/13/00	<b>TORTS; Immunity;</b> immunity for the treatment rendered to or reports made regarding certain animals under certain circumstances; provide for. ( <b>Rep. G. Law</b> )
24		866	Yes	3/14	3/15	07/01/00	<b>LOCAL GOVERNMENT;</b> Authorities; penalties for violation of municipal sewage and water supply system rules or regulation; increase. ( <b>Sen. L. Bennett</b> )
25		910	Yes	3/14	3/15	03/15/00	<b>HIGHWAYS; Name;</b> certain overpass on M-121; designate as Preston Schmidt Overpass. ( <b>Sen. R. Emerson</b> )

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 \*\*\* - See Act for applicable effective date.  
 + - Line item veto  
 # - Tie bar



Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
27		590	Yes	3/14	3/15	03/15/00	<b>INSURANCE;</b> Health; genetic testing and information; prohibit use of in certain circumstances. <b>(Sen. D. Shugars)</b>
28		591	Yes	3/14	3/15	03/15/00	<b>INSURANCE;</b> Health maintenance organizations; genetic testing and information; prohibit use of in certain circumstances. <b>(Sen. B. Hammerstrom)</b>
29		593	Yes	3/14	3/15	03/15/00	<b>HEALTH;</b> Genetics; written, informed consent for genetic testing; require. <b>(Sen. M. Goschka)</b>
30		594	Yes	3/14	3/15	03/15/00	<b>HEALTH;</b> Testing; forensic DNA testing; provide procedures for disposal of DNA samples. <b>(Sen. M. Rogers)</b>
31		595	Yes	3/14	3/15	03/15/00	<b>HEALTH;</b> Testing; paternity DNA testing; provide procedures for the disposal of certain DNA samples and records. <b>(Sen. J. Gougeon)</b>
32		815	Yes	3/14	3/15	03/15/00	<b>CIVIL RIGHTS;</b> Disabilities discrimination; use of genetic testing as a condition for obtaining employment; prohibit. <b>(Sen. B. Hammerstrom)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
33		807	Yes	3/14	3/15	03/15/00	<b>HEALTH;</b> Medical records; blood samples taken for purposes of newborn screening tests; require department of community health to develop schedule for retention and disposal of blood samples after tests are conducted and to offer to provide a blood sample to the infant's parent or guardian. <b>(Sen. J. Schwarz)</b>
34		803	Yes	3/15	3/15	03/15/00	<b>LAND USE;</b> Other; corner recordation act; revise. <b>(Sen. J. Emmons)</b>
35	4620		Yes	3/15	3/17	03/17/00	<b>INSURANCE;</b> Agents; reciprocity for adjuster's license; require in certain cases. <b>(Rep. M. Scott)</b>
36	4969		Yes	3/15	3/17	04/01/01	<b>VEHICLES;</b> License plates; expiration date of license plates of leased vehicles; revise. <b>(Rep. M. Kowall)</b>
37	4742		Yes	3/15	3/17	03/17/00	<b>HEALTH;</b> Testing; requirement that physician review panel make recommendation to circuit court before HIV, HBV, or HCV test is ordered under certain circumstances; eliminate. <b>(Rep. R. Johnson)</b>
38		1051	Yes	3/24	3/24	03/24/00	<b>COURTS;</b> District court; eighty-sixth and eighty-seventh districts; allow revision. <b>(Sen. G. McManus Jr.)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
39	5341		Yes	3/24	3/24	03/24/00	<b>RECREATION;</b> Fairs; Michigan exposition and fairgrounds act; provide general amendments. <b>(Rep. L. DeVuyst)</b>
40	5389		Yes	3/27	3/27	03/27/00	<b>INCOME TAX;</b> Rate; acceleration of phase-in of the rate reduction; provide for. <b>(Rep. J. Howell)</b>
41	5393		Yes	3/27	3/27	03/27/00	<b>INCOME TAX;</b> Property tax credit; individuals eligible for alternate calculation of homestead property tax credit; expand to include disabled individuals. <b>(Rep. J. Gilbert II)</b>
42		1036	Yes	3/27	3/27	03/27/00	<b>INCOME TAX;</b> Exemptions; extra exemption for children; increase and expand to include older children. <b>(Sen. B. Hammerstrom)</b>
43		1038	Yes	3/27	3/27	***	<b>INCOME TAX;</b> Other; dependent; define. <b>(Sen. M. Goschka)</b>
44		1040	Yes	3/27	3/27	03/27/00	<b>SINGLE BUSINESS TAX;</b> Other; investment tax credit provision; revise calculation. <b>(Sen. P. Hoffman)</b>
45	5144		Yes	3/27	3/27	03/27/00	<b>CHILDREN;</b> Protection; provisions related to the classification of child protection cases; amend and enact certain provisions related to citizen review panels. <b>(Rep. R. Johnson)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
46	5145		Yes	3/27	3/27	03/27/00	<b>CHILDREN;</b> Protection; permanency hearings for out-of-home placements; revise frequency requirements and hearing considerations. <b>(Rep. J. Voorhees)</b>
47	4769		Yes	3/27	3/27	03/27/00	<b>TRANSPORTATION;</b> Carriers; truck used exclusively to transport milk from the farm to the first point of delivery; allow same registration rate as wood harvesters. <b>(Rep. R. Johnson)</b>
48		766	Yes	3/27	3/27	03/27/00	<b>EDUCATION;</b> Board members; filling of local school board vacancy; extend time limit to 30 days. <b>(Sen. L. Bennett)</b>
49		57	Yes	3/29	3/29	03/29/00	<b>TRANSPORTATION;</b> School vehicles; pupil transportation act; revise certain vehicle definitions and certain requirements for receiving or discharging pupils from school buses. <b>(Sen. W. North)</b>
50	4026		Yes	3/29	3/29	03/29/00	<b>CAMPAIGN FINANCE;</b> Statements and reports; preservation of campaign statements and reports by filing officials; revise length of time. <b>(Rep. S. Shackleton)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
51		525	Yes	3/29	3/29	06/01/00	<b>CRIMINAL PROCEDURE;</b> Sentencing; court to order individual convicted of crime relating to riot, unlawful assembly, or civil disorder not to enter on or within 2,500 feet of campus of institution of higher education and to pay certain costs arising out of that riot, unlawful assembly, or civil disorder; allow. <b>(Sen. L. Bennett)</b>
52	4305		Yes	3/29	3/29	3/29/00 +	<b>APPROPRIATIONS;</b> Environmental quality; departments of environmental quality and community health; provide supplemental funding for fiscal year 1999-2000 and other fiscal periods. <b>(Rep. W. Byl)</b>
53	5143		Yes	3/29	3/30	03/30/00	<b>FOOD;</b> Fruits and vegetables; storage of fruits and vegetables; revise standards and procedures. <b>(Rep. R. Jelinek)</b>
54		1045	Yes	3/29	3/30	04/01/00	<b>PROBATE;</b> Other; corrective and other amendments to estates and protected individuals code; enact before April 1, 2000 effective date. <b>(Sen. W. Van Regenmorter)</b>
55	5485		Yes	3/29	3/30	04/01/00	<b>PROBATE;</b> Other; cites to R.P.C. in probate code of 1939; convert to E.P.I.C. citations. <b>(Rep. A. Richner)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
56	5486		Yes	3/29	3/30	04/01/00	<b>PROBATE;</b> Other; cites to R.P.C. in revised judicature act of 1961; convert to E.P.I.C. citations and other amendments in coordination with amendments to E.P.I.C. <b>(Rep. M. Shulman)</b>
57	5487		Yes	3/29	3/30	04/01/00	<b>PROBATE;</b> Other; cites to R.P.C. in mental health code; convert to E.P.I.C. citations and other amendments in coordination with amendments to E.P.I.C. <b>(Rep. J. Minore)</b>
58	5488		Yes	3/29	3/30	04/01/00	<b>PROBATE;</b> Other; cites to R.P.C. in public health code; convert to E.P.I.C. citations. <b>(Rep. G. Law)</b>
59	5489		Yes	3/29	3/30	04/01/00	<b>PROBATE;</b> Other; cite to R.P.C. in Michigan do-not-resuscitate procedure act; convert to E.P.I.C. citations. <b>(Rep. T. Reeves)</b>
60	5490		Yes	3/29	3/30	04/01/00	<b>PROBATE;</b> Other; cites to R.P.C. in child custody act of 1970; convert to E.P.I.C. citations. <b>(Rep. J. Voorhees)</b>
61	5491		Yes	3/29	3/30	04/01/00	<b>PROBATE;</b> Other; cites to R.P.C. in the social welfare act; convert to E.P.I.C. citations. <b>(Rep. D. Hart)</b>
62	5492		Yes	3/29	3/30	04/01/00	<b>PROBATE;</b> Other; cites to R.P.C. in banking code of 1999; convert to E.P.I.C. citations. <b>(Rep. A. Sanborn)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
63	5493		Yes	3/29	3/30	04/01/00	<b>PROBATE;</b> Other; cites to R.P.C. in savings bank act; convert to E.P.I.C. citations. <b>(Rep. A. Sanborn)</b>
64	5494		Yes	3/29	3/30	04/01/00	<b>PROBATE;</b> Other; cites to R.P.C. in Michigan vehicle code; convert to E.P.I.C. citations. <b>(Rep. G. Schermesser)</b>
65	5495		Yes	3/29	3/30	04/01/00	<b>PROBATE;</b> Other; cites to R.P.C. in N.R.E.P.A.; convert to E.P.I.C. citations. <b>(Rep. M. Switalski)</b>
66	5496		Yes	3/29	3/30	04/01/00	<b>PROBATE;</b> Other; cites to R.P.C. in the Michigan penal code; convert to E.P.I.C. citations. <b>(Rep. J. Koetje)</b>
67	5497		Yes	3/29	3/30	04/01/00	<b>COURTS;</b> Probate court; probate register's authority; amend revised judicature act of 1961 to coordinate with EPIC provisions. <b>(Rep. A. Richner)</b>
68	5498		Yes	3/29	3/30	04/01/00	<b>PROBATE;</b> Wills and estates; powers of appointment act of 1967; amend for consistency with EPIC. <b>(Rep. M. Shulman)</b>
69		180	No	3/30	4/4	** #	<b>NATURAL RESOURCES;</b> Wildlife; application of money collected through sales of critical wildlife habitat plates to purchase of critical wildlife habitat; provide for. <b>(Sen. G. McManus Jr.)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
70		770	No	3/30	4/4	** #	<b>VEHICLES;</b> License plates; critical wildlife habitat specialty plate; create. <b>(Sen. G. McManus Jr.)</b>
71		827	No	3/30	4/4	** #	<b>VEHICLES;</b> License plates; children's trust fund specialty license plate; create. <b>(Sen. B. Hammerstrom)</b>
72		829	No	3/30	4/4	** #	<b>CHILDREN;</b> Other; revenue from children's trust fund specialty license plate; earmark for children's trust fund. <b>(Sen. B. Hammerstrom)</b>
73	5041		No	3/30	4/4	** #	<b>VEHICLES;</b> License plates; specialty plate; establish and earmark for preservation of lighthouses. <b>(Rep. S. Shackleton)</b>
74	5042		No	3/30	4/4	** #	<b>VEHICLES;</b> License plates; specialty plate for water quality; create. <b>(Rep. L. Hager)</b>
75	4523		No	4/5	4/7	**	<b>CAMPAIGN FINANCE;</b> Statements and reports; failure of certain committees to file campaign finance reports; increase penalties and provide other general amendments. <b>(Rep. A. Richner)</b>
76	4995		Yes	4/5	4/7	10/01/00	<b>TRAFFIC CONTROL;</b> Parking; penalties for blocking a wheelchair ramp, curb-cut, or access lane or aisle with a vehicle; establish and permit removal of the vehicle. <b>(Rep. L. Toy)</b>

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77		826	Yes	4/5	4/7	10/01/00	<b>VEHICLES;</b> License plates; specialty fund-raising registration plates; establish procedures. <b>(Sen. B. Bullard Jr.)</b>
78		737	Yes	4/5	4/7	04/07/00	<b>VEHICLES;</b> License plates; specialty plates for congressional medal of honor recipients at no cost to recipient, and the creation of a Michigan veterans memorial registration plate; provide for. <b>(Sen. B. Schuette)</b>
79	5040		No	4/19	4/19	** #	<b>VEHICLES;</b> License plates; specialty plate for agricultural heritage; provide for and earmark revenue to the Michigan state university vision2000 endowment fund. <b>(Rep. J. Allen)</b>
80		876	No	4/19	4/19	**	<b>LAW ENFORCEMENT;</b> Peace officers; enforcement of state land use rules by forest officers; allow. <b>(Sen. P. Hoffman)</b>
81	4776		Yes	4/19	4/19	04/19/00	<b>VETERANS;</b> Other; speakers program; establish in the department of military and veterans affairs. <b>(Rep. L. Julian)</b>

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82		857	Yes	5/1	5/1	07/01/00	<b>VEHICLES;</b> Other; use of certain low speed vehicles on public roads; allow under certain circumstances and establish certain requirements and regulations for use. <b>(Sen. G. McManus Jr.)</b>
83	4710		Yes	5/1	5/1	07/01/00	<b>CIVIL PROCEDURE;</b> Service of process; initial service of personal protection orders by state police officers; authorize to issue. <b>(Rep. A. Sanborn)</b>
84	4715		Yes	5/1	5/1	07/01/00	<b>CRIMES;</b> Domestic violence; domestic violence definition; revise. <b>(Rep. L. Baird)</b>
85	4414		Yes	5/1	5/1	10/01/00	<b>COURTS;</b> Witnesses; rate of reimbursement for travel expenses of a subpoenaed witness; revise. <b>(Rep. R. Johnson)</b>
86	5083		Yes	5/1	5/1	05/01/00	<b>COURTS;</b> Supreme court; bar examination fees; revise. <b>(Rep. A. Raczkowski)</b>
87	5233		Yes	5/1	5/1	05/01/00	<b>EDUCATION;</b> Other; policies on school locker searches; provide for. <b>(Rep. L. Hager)</b>
88		588	Yes	5/1	5/1	05/01/00	<b>EDUCATION;</b> Other; student education records and teacher addresses and telephone numbers; prohibit release of under certain circumstances. <b>(Sen. B. Schuette)</b>

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89	5291		Yes	5/1	5/1	5/1/00#	<b>SCHOOL AID;</b> Conditions; immunization status assessment and reporting for children entering sixth grade; require. <b>(Rep. P. DeWeese)</b>
90	5292		Yes	5/1	5/1	5/1/00#	<b>HEALTH; Testing; immunization status assessment for children entering sixth grade; require. (Rep. G. Law)</b>
91	5293		Yes	5/1	5/1	5/1/00#	<b>EDUCATION;</b> Other; immunization status assessment of all children entering the sixth grade; require. <b>(Rep. J. Allen)</b>

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**MICHIGAN ADMINISTRATIVE CODE TABLE**  
**(2000 SESSION)**

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*The following table cites administrative rules of permanent nature promulgated during the year 2000, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).*



**MICHIGAN ADMINISTRATIVE CODE TABLE**  
(2000 RULE FILINGS)

R Number	Action	2000 MR Issue Number	R Number	Action	2000 MR Issue Number	R Number	Action	2000 MR Issue Number
38.135	*	1	38.175	*	1	247.806	r	6
38.139	r	1	38.176	*	1	247.807	r	6
38.141	*	1	38.177	*	1	247.808	r	6
38.142	*	1	38.178	r	1	247.809	r	6
38.143	*	1	38.179	a	1	247.810	r	6
38.144	*	1	169.39e	a	2	247.811	r	6
38.145	*	1	211.441	*	6	247.812	r	6
38.146	*	1	247.4101	a	6	247.813	r	6
38.147	*	1	247.4102	a	6	247.814	r	6
38.148	*	1	247.4103	a	6	281.922a	a	6
38.149	*	1	247.4104	a	6	281.925	*	6
38.151	*	1	247.4105	a	6	323.1001	*	3
38.152	*	1	247.4106	a	6	323.2193	a	3
38.153	*	1	247.4107	a	6	323.2194	a	3
38.154	r	1	247.4108	a	6	323.2195	a	3
38.155	*	1	247.4201	a	6	323.2317	*	3
38.156	*	1	247.4202	a	6	324.1501	*	3
38.157	*	1	247.4203	a	6	324.1511	*	3
38.158	r	1	247.4301	a	6	325.51152	*	2
38.159	r	1	247.4302	a	6	325.51162	*	2
38.161	*	1	247.4303	a	6	325.51163	*	2
38.162	*	1	247.4304	a	6	325.51177	*	2
38.163	*	1	247.4305	a	6	325.51401	a	5
38.164	r	1	247.4306	a	6	325.51402	a	5
38.165	*	1	247.4307	a	6	325.51403	a	5
38.171	*	1	247.801	r	6	325.51404	a	5
38.172	*	1	247.802	r	6	325.51405	a	5
38.173	*	1	247.803	r	6	325.51406	a	5
38.174	*	1	247.804	r	6	325.51407	a	5
38.174a	a	1	247.805	r	6	325.51408	a	5

(\* Amendment to Rule, **a** Added Rule, **n** New Rule, **r** Rescinded Rule)



R Number	Action	2000 MR Issue Number	R Number	Action	2000 MR Issue Number	R Number	Action	2000 MR Issue Number
325.51409	a	5	336.1801	a	5	338.2126	r	2
325.51410	a	5	336.2401	r	3	338.2132a	r	2
325.51411	a	5	336.2409	r	3	338.2146	r	2
325.51412	a	5	336.2412	r	3	338.2148	r	2
325.51413	a	5	336.242	r	3	338.2149	r	2
325.51414	a	5	336.2701	*	4	338.2151a	r	2
325.51502	*	2	336.2702	*	4	338.2152	r	2
325.51509	*	2	336.2703	r	4	338.2156	r	2
325.51517	*	2	338.12002	*	6	338.2172	r	2
325.51519	*	2	338.12003	*	6	338.2174	r	2
325.51527	*	2	338.12004	*	6	338.2175	r	2
325.51602	*	1	338.12005	*	6	338.2181	r	2
325.51610	*	1	338.12006	*	6	338.2182	r	2
325.51611	*	1	338.12007	r	6	338.2183	r	2
325.51612	r	1	338.12008	*	6	338.2184	r	2
325.51613	r	1	338.12008a	a	6	338.2185	r	2
325.51614	*	1	338.1901	*	4	338.2186	r	2
325.51618	*	1	338.1905	*	4	338.479b	*	4
325.51619	*	1	338.1906	r	4	400.4104	*	4
325.51628	*	1	338.1907	r	4	400.5101	*	4
325.52102	*	2	338.1908	*	4	400.5102	a	4
325.52103	*	2	338.1909	*	4	400.5103	*	4
325.52113	*	2	338.191	*	4	400.5104a	a	4
325.52114	*	2	338.1911	*	4	400.5104b	a	4
325.52118	*	2	338.1912	*	4	400.5105	*	4
325.52125	*	2	338.1913	*	4	400.5105a	a	4
325.52129	*	2	338.1914	r	4	400.5105b	a	4
325.5213	*	2	338.1921	*	4	400.5106	*	4
325.52131	*	2	338.1922	*	4	400.5107	*	4
325.52135	*	2	338.2103	r	2	400.5108	*	4
325.52137	*	2	338.2106	r	2	400.5109	*	4
336.1101	*	4	338.2107	r	2	400.511	*	4
336.1104	*	4	338.2121	r	2	400.5111	*	4
336.132	r	4	338.2124	r	2	400.5112	*	4
336.1602	*	4	338.2125	r	2	400.5113	*	4

(\* Amendment to Rule, **a** Added Rule, **n** New Rule, **r** Rescinded Rule)



R Number	Action	2000 MR Issue Number	R Number	Action	2000 MR Issue Number	R Number	Action	2000 MR Issue Number
400.5113	a	4a	400.581	*	4	408.12130	r	5
400.5115	*	4	400.5815	*	4	408.12132	a	5
400.5116	*	4	400.582	*	4	408.12134	a	5
400.5117	*	4	400.5825	*	4	408.12135	r	5
400.5201	a	4	400.583	r	4	408.12136	a	5
400.5202	r	4	400.5835	*	4	408.12137	a	5
400.5203	r	4	400.584	*	4	408.12138	a	5
400.5204	*	4	400.5841	a	4	408.12151	a	5
400.5208	r	4	400.5845	*	4	408.12152	a	5
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400.521	r	4	400.5855	r	4	408.12155	a	5
400.5302	*	4	400.5856	a	4	408.12163	a	5
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408.721	*	1	418.10111	a	6	418.10206	a	6
408.722	*	1	418.10112	a	6	418.10207	a	6
408.723	*	1	418.10113	a	6	418.10208	a	6
408.733	r	1	418.10114	a	6	418.10209	a	6
408.734	r	1	418.10115	a	6	418.10212	a	6
408.735	r	1	418.10116	a	6	418.10213	a	6
418.101001	a	6	418.10117	a	6	418.10214	a	6
418.101002	a	6	418.10118	a	6	418.10401	a	6
418.101003	a	6	418.10119	a	6	418.10403	a	6
418.101004	a	6	418.10120	a	6	418.10404	a	6
418.101006	a	6	418.101201	a	6	418.10405	a	6
418.101007	a	6	418.101203	a	6	418.10406	a	6
418.10101	a	6	418.101204	a	6	418.10407	a	6
418.101015	a	6	418.101205	a	6	418.10410	a	6
418.101016	a	6	418.101206	a	6	418.10411	a	6
418.101017	a	6	418.101207	a	6	418.10415	a	6
418.101018	a	6	418.101208	a	6	418.10416	a	6
418.101019	a	6	418.101209	a	6	418.10417	a	6
418.10102	a	6	418.101210	a	6	418.10501	a	6
418.101022	a	6	418.101301	a	6	418.10502	a	6
418.10103	a	6	418.101302	a	6	418.10503	a	6
418.10104	a	6	418.101303	a	6	418.10701	a	6
418.10105	a	6	418.101304	a	6	418.10901	a	6
418.10106	a	6	418.101305	a	6	418.10904	a	6
418.10107	a	6	418.101401	a	6	418.10905	a	6
418.10108	a	6	418.101402	a	6	418.10907	a	6
418.10109	a	6	418.101404	a	6	418.10911	a	6
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418.101101	a	6	418.10201	a	6	418.10913	a	6
418.101102	a	6	418.10202	a	6	418.10915	a	6
418.101103	a	6	418.10203	a	6	418.10916	a	6
418.101104	a	6	418.10204	a	6	418.10918	a	6

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418.10921	a	6	432.208	*	3	432.21302	a	3
418.10922	a	6	432.209	*	3	432.21303	a	3
418.10923	a	6	432.21	*	3	432.21304	a	3
418.10924	a	6	432.211	*	3	432.21305	a	3
418.10925	a	6	432.21101	a	3	432.21306	a	3
432.101	*	3	432.21102	a	3	432.21307	a	3
432.102	*	3	432.21103	a	3	432.21308	a	3
432.103	*	3	432.21104	a	3	432.21309	a	3
432.104	*	3	432.21105	a	3	432.2131	a	3
432.105	*	3	432.21106	a	3	432.21311	a	3
432.106	*	3	432.21107	a	3	432.21312	a	3
432.107	*	3	432.21108	a	3	432.21313	a	3
432.108	*	3	432.21109	a	3	432.21314	a	3
432.109	*	3	432.2111	a	3	432.21315	a	3
432.11	*	3	432.21111	a	3	432.21316	a	3
432.111	*	3	432.21112	a	3	432.21317	a	3
432.112	*	3	432.21113	a	3	432.21318	a	3
432.113	*	3	432.21199	a	3	432.21319	a	3
432.114	*	3	432.212	*	3	432.2132	a	3
432.115	*	3	432.212	*	3a	432.21321	a	3
432.116	*	3	432.21201	a	3	432.21322	a	3
432.117	*	3	432.21202	a	3	432.21323	a	3
432.118	*	3	432.21203	a	3	432.21324	a	3
432.201	*	3	432.21204	a	3	432.21325	a	3
432.202	*	3	432.21205	a	3	432.21326	a	3
432.203	*	3	432.21206	a	3	432.21327	a	3
432.204	*	3	432.21207	a	3	432.21328	a	3
432.205	*	3	432.21208	a	3	432.21329	a	3
432.206	*	3	432.213	*	3	432.2133	a	3

(\* Amendment to Rule, **a** Added Rule, **n** New Rule, **r** Rescinded Rule)



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432.21331	a	3	432.21506	a	3	432.21616	a	3
432.21332	a	3	432.21507	a	3	432.21617	a	3
432.21333	a	3	432.21508	a	3	432.21618	a	3
432.21334	a	3	432.21509	a	3	432.21619	a	3
432.21335	a	3	432.2151	a	3	432.2162	a	3
432.21336	a	3	432.21511	a	3	432.21621	a	3
432.214	*	3	432.21512	a	3	432.21622	a	3
432.21401	a	3	432.21513	a	3	432.21623	a	3
432.21402	a	3	432.21514	a	3	432.21624	a	3
432.21403	a	3	432.21515	a	3	432.21701	a	3
432.21404	a	3	432.21516	a	3	432.21702	a	3
432.21405	a	3	432.21517	a	3	432.21703	a	3
432.21406	a	3	432.21518	a	3	432.21704	a	3
432.21407	a	3	432.21519	a	3	432.21705	a	3
432.21408	a	3	432.2152	a	3	432.21706	a	3
432.21409	a	3	432.21521	a	3	432.21707	a	3
432.2141	a	3	432.21522	a	3	432.21708	a	3
432.21411	a	3	432.216	*	3	432.21709	a	3
432.21412	a	3	432.21601	a	3	432.2171	a	3
432.21413	a	3	432.21602	a	3	432.21711	a	3
432.21414	a	3	432.21603	a	3	432.21712	a	3
432.21415	a	3	432.21604	a	3	432.21713	a	3
432.21416	a	3	432.21605	a	3	432.21714	a	3
432.21417	a	3	432.21606	a	3	432.21715	a	3
432.21418	a	3	432.21607	a	3	432.21716	a	3
432.21419	a	3	432.21608	a	3	432.21717	a	3
432.2142	a	3	432.21609	a	3	432.21718	a	3
432.215	*	3	432.2161	a	3	432.21719	a	3
432.21501	a	3	432.21611	a	3	432.2172	a	3
432.21502	a	3	432.21612	a	3	432.21721	a	3
432.21503	a	3	432.21613	a	3	432.21801	a	3
432.21504	a	3	432.21614	a	3	432.21802	a	3
432.21505	a	3	432.21615	a	3	432.21803	a	3

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432.21805	a	3	432.308	*	3	436.1335	*	3
432.21806	a	3	432.309	*	3	436.1405	*	3
432.21807	a	3	432.31	*	3	436.1407	*	3
432.21808	a	3	432.311	*	3	436.1419	*	3
432.21809	a	3	432.312	*	3	436.1425	*	3
432.2181	a	3	432.313	*	3	436.1429	r	3
432.21811	a	3	432.401	r	6	436.1435	*	3
432.21812	a	3	432.402	r	6	436.1437	*	3
432.21901	a	3	432.403	r	6	436.1509	r	3
432.21902	a	3	432.404	r	6	436.1511	*	3
432.21903	a	3	432.405	r	6	436.1523	*	3
432.21904	a	3	432.406	r	6	436.1531	a	3
432.21905	a	3	432.407	r	6	436.1708	*	3
432.21906	a	3	432.408	r	6	436.1714	r	3
432.21907	a	3	432.409	r	6	436.1717	*	3
432.21908	a	3	436.1001	*	3	436.1719	*	3
432.21909	a	3	436.1011	*	3	436.1731	r	3
432.2191	a	3	436.1023	*	3	436.1735	*	3
432.21911	a	3	436.1045	*	3	436.1802	*	3
432.22001	a	3	436.1053	*	3	436.1825	a	3
432.22002	a	3	436.1059	*	3	436.1827	a	3
432.22003	a	3	436.1062	a	3	436.1829	a	3
432.22004	a	3	436.1105	*	3	436.1853	*	3
432.22005	a	3	436.1109	*	3	436.1859	*	3
432.22006	a	3	436.111	*	3	436.571	r	3
432.22007	a	3	436.1113	*	3	436.572	*	3
432.22008	a	3	436.1115	*	3	436.573	r	3
432.301	*	3	436.1117	*	3	436.574	*	3
432.302	*	3	436.1121	*	3	436.575	*	3
432.303	*	3	436.1129	*	3	436.578	r	3
432.304	*	3	436.1131	r	3	436.58	r	3
432.305	*	3	436.1135	*	3	436.581	r	3
432.306	*	3	436.1313	*	3	436.582	a	3

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460.2117	*	3
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460.212	*	3
460.2121	*	3
460.2123	*	3
460.2124	*	3
460.2131	*	3
460.2132	*	3
460.2133	*	3
460.2134	*	3
460.2135	*	3
460.2145	*	3
460.2146	*	3
460.2146	*	3
460.2147	*	3
460.215	*	3
460.2151	*	3
460.2163	*	3
460.2165	*	3
460.2168	*	3
460.2169	*	3
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Crane Game Rules, R 432.401 - 432.409 (2000-6)

## Michigan Higher Education Student Loan Authority

Michigan alternative student loan program, R 390.1622-R 390.1631 (\*2000-2)

## State Assessors Board

General Rules, R 211.401 - 211.447 (2000-6)